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VOLUME VII

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1960

No. 306

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, APPELLANT,

vs.

UNITED STATES, ET AL.

No. 307

EZRA TAFT BENSON, SECRETARY OF AGRICULTURE OF THE UNITED STATES, APPELLANT,

vs.

UNITED STATES, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

FILED AUGUST 9, 1960
PROBABLE JURISDICTION NOTED OCTOBER 17, 1960

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APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

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[fol. 3762]

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 31466.

In the Matter of:

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

v.

SPOKANE, PORTLAND AND SEATTLE RAILWAY COMPANY ET AL.

Hearing Room "C,"
Interstate Commerce Commission,
Washington, D. C.,
Tuesday, June 21, 1955.

Transcript of Proceedings, Tuesday, June 21, 1955

Met, pursuant to adjournment, at 9:30 a. m.

Before:

L. H. DISHMAN,

Examiner.

Appearances:

(As heretofore noted.)

[fol. 3763] Exam. Dishman: The hearing will come to order, gentlemen.

The adjourned hearing in Docket No. 31466, Chicago, Milwaukee, St. Paul and Pacific Railroad Company v. Spokane, Portland and Seattle Railway Company, et al., will now be resumed.

Do you wish, Mr. Maguire, to number the exhibits which have been distributed?

Mr. Maguire: Yes. Off the record?

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

The first exhibit will be No. 129.

Mr. Maguire: No. 129 will be the large exhibit headed "Statement of number of cars, separated as to lumber and forest products and all other commodities, having origin on the Union Pacific Railroad," etc. That is No. 129.

I would like to have identified as No. 130, a single sheet entitled, in part "Statement of number of cars separated as to lumber and forest products and all other commodities originating on line and received from connections at points west of Twin Cities, and delivered to the C. B. & Q.," etc.

I will ask to be identified as Exhibit 131 a single sheet entitled, in part "Statement of number of cars of lumber and forest products originating at or received from connections at stations in the States of Washington, Idaho, [fol. 3764] and Montana, moving through the Twin Cities via the C. M. St. P. & P. Railroad," etc.

(Complainant's Exhibits Nos. 129, 130, and 131, Witness Nickels, were marked for identification.)

Mr. Torinus: Mr. Examiner, before Mr. Maguire proceeds with his rebuttal, I would like to make one correction in Mr. Lear's testimony. Inadvertently he read off from his notes an erroneous figure, which appears on page 3746 of the transcript. That figure is at the very end of the top line on page 3746, and the way it appears in the transcript is $279,192. It should be $25,042. The figure is a mathematical calculation from some other figures that Mr. Lear mentioned in the same answer, and I think the error is obvious, but I would like to have the record corrected.

Mr. Maguire: In other words, 700 times $35.

Mr. Torinus: 706 times. I think he mentioned 706 up here.

Mr. Maguire: Mr. Torinus, this sum that you mentioned which is shown in the transcript is the product of 706 times $35.47; is that right?

Mr. Torinus: That is correct.

Mr. Maguire: I will accept the correction.

Let me have that amount, if you will.

We will now call Mr. W. H. Nickels, who has already been sworn in this proceeding and appeared in the hearing in Portland commencing June 24, 1954.

[fol. 3765] W. H. NICKELS was recalled and testified as follows:

Direct examination.

By Mr. Maguire:

Q. Mr. Nickels, you are the same W. H. Nickels who testified as to Exhibit No. 1 in this proceeding, are you not?

A. I am.

Q. And I wish to call your attention, first, to certain claims of error in your Exhibit No. 1, namely, errors appearing on sheet 19 and sheets 24 to 28 of that exhibit.

Mr. Rockwood: Sheet 19 and 24?

Mr. Maguire: Sheet 19 and sheets 24 to 28, inclusive.

Mr. Rockwood: May we hold it up until we get a copy of the exhibit out?

Mr. Maguire: Surely.

And in order to cut this short, my recollection of it is that there was exception made to, opposite the lines as entitled "I.C.C. No. 411, lumber, shingles, and lathe." That there was claimed to be a discrepancy of 162 cars.

Mr. Rockwood: Claimed by Mr. Ehlen in his analysis?

Mr. Maguire: Yes.

By Mr. Maguire:

Q. Have you checked upon that and what do you find to be the fact?

A. I have checked that and I find it is overstated 162 cars. The correct total should read 980 cars.

[fol. 3766] Q. That is 980 cars under that, across from I.C.C. No. 411?

A. That is right.

Q. 980 cars, instead of 1142?

A. $621,944.91.

Mr. Rockwood: That is in place of $708,000?
The Witness: That is right.

By Mr. Maguire:

Q. Your Milwaukee revenue?
A. Is $91,611.79, instead of $101,263.72.
Q. The result of the thing is there is between nine and ten thousand dollars less Milwaukee revenue in your correction of the exhibit than there was as shown in the original exhibit; is that right?
A. That is right.
Q. Now, as to sheets 24—

Mr. Rockwood: May I inquire, is it true, Mr. Nickels, that that resulted from a duplication of a figure of 162 from certain months in the year?
The Witness: No. It is hard to say, but I have the recap showing the total, but I can't find the detail that made the recap.
Mr. Maguire: Anyway, we are accepting Mr. Ehlen's correction.

By Mr. Maguire:

Q. As to the figure shown on sheets 24 to 28, inclusive, of the exhibit, which is a heading of "Statement of traffic originating at stations on the Oregon Electric and terminat-[fol. 3767] ing at stations on foreign lines," showing the commodity, number of cars, etc., for the year 1952.
What comment have you to make as to any claimed errors there?
A. I have rechecked this statement, and I find it a hundred percent correct. I cannot discover any error in it. The entire accounts were rechecked.
Q. And you do not accept any corrections by Mr. Ehlen in that respect?
A. No, sir; I do not.

Mr. Rockwood: Again, so that this will be together, do you remember the extent of the corrections suggested by Mr. Ehlen?

The Witness: If I remember correctly, he had a discrepancy of 69 cars which I cannot find.

Mr. Rockwood: Out of how many?

The Witness: Out of 1057.

Mr. Wood: You don't have your work sheets with you to show that?

The Witness: Not for this. I have a tabulation from the accounts.

By Mr. Maguire:

Q. Now, Mr. Nickels, will you turn to a single sheet which is marked for identification Exhibit No. 129, and will you briefly describe what that exhibit consists of?

A. This exhibit is a statement of number of cars separated as to lumber and forest products and all other [fol. 3768] commodities having origin on the U.P. and Southern Pacific, and moving eastbound via Marengo, Wash., and the C. M. St. P. & P. Railroad Company for the months of February, May, August, and November, 1953, and estimated total for the year 1953. It separates lumber and forest products, and all other commodities, and also a separation is on the U.P. from points on the Deschutes Line and other origins to points on the Milwaukee to destinations on connections west of Chicago and to destinations and connections east of Chicago. And the same information as to the Southern Pacific.

Q. I don't know that that is made quite clear there as to your destination territory. It shows, first, to points on the Milwaukee Railroad, itself; is that right?

A. That is right.

Q. And, second, the second pair of columns is to destinations on connections west of Chicago, and the third pair of columns is to destinations on connections east of Chicago?

A. That is right.

Q. And in each case the Union Pacific origins are in the left-hand of each of those pairs of columns, shows origins on the Deschutes Line between Bend, Ore., and Oregon Trunk Railway?

A. That is right.

Q. You know you will pardon me for reading here, but this is just a matter of description.

Is that the same line on the Union Pacific as the Oregon Trunk Junction?

[fol. 3769] A. It covers the same territory as covered by the Oregon Trunk Line.

Q. Was that the reason why you made this separation between the Deschutes Line and other origins?

A. That is correct.

Q. Now, then, also, just to make the record clear, you have this separated, one classification is lumber and forest products?

A. That is right.

Q. The other classification is other commodities?

A. That is right.

Q. Are those all other commodities?

A. Yes, they are. All other commodities.

Q. Now, then, if you will refer to the second half of the exhibit which is headed "From Southern Pacific Company Origins." I think that is self-explanatory, except following the same explanation as the Union Pacific, except you are splitting off your origin territory of the Southern Pacific. Would you explain that?

A. We took points, Eugene and north, which is the territory covered by the Oregon Electric Railway.

Q. That is in the lefthand of each of those pair of columns?

A. That is right.

Q. And then what is the other column?

A. Other origins on the Southern Pacific Railroad.

[fol. 3770] Mr. Maguire: I may comment at this time, Mr. Examiner, that we used the same months and same methods of calculations as was used by certain of the so-called Western Trunk Line defendants in their exhibits. That is to make these parallel figures to theirs.

By Mr. Maguire:

Q. We will pass on to the sheet which is marked for identification Exhibit No. 131.

Mr. Rockwood: Are you skipping 130?
Mr. Maguire: I beg your pardon.

By Mr. Maguire:

Q. Let us take No. 130 next.

A. That is a statement of number of cars separated as to lumber and forest products and all other commodities, originating on line and received from connections at points west of Twin Cities, and delivered to the C. B. & Q., C. & N. W., C. R. I. & P., and M. & St. L. at Twin Cities, further separated between competitive and non-competitive destinations, for the months of February, May, August, and November, 1953, and estimated total for the year of 1953.

Q. When you say C. & N. W. system, does that include the so-called Omaha Railroad?

A. Yes.

Q. The Omaha Line?

A. Yes, sir.

Q. Would you explain the basis for your separation between competitive and non-competitive destinations?

[fol. 3771] A. We made a tabulation of all of the movements in these different railroads' accounts, and separated as to the points which is common with the Milwaukee or to an interchange point which would be common with the other carrier.

Q. Now, would you elaborate a little bit further upon the common destination of the Milwaukee—that is, self-explanatory, but as to common or competitive interchange points. Give an example of that.

A. For example, a movement given to the Rock Island at the transfer and then given to the Fort Dodge, Des Moines & Southern, or any of our other smaller connections in Iowa, which we could handle to the same interchange points as they do. They are both common to the Milwaukee.

Q. And do you have any, or are any of the cars which are shown in here—did any of them move through Chicago to eastern destinations?

A. Yes, sir; they did.

Q. Just name some company, for example, with whom the Chicago interchange would be competitive?

A. Rock Island, North Western, C. B. & Q.

Q. Let us pass on to Exhibit, for identification, No. 131. Would you explain the exhibit.

A. Exhibit 131 is a statement of number of cars of lumber and forest products originating at or received from connections at stations in the States of Washington, Idaho, [fol. 3772] and Montana, moving through the Twin Cities via the C. M. St. P. & P. Railroad and terminating at stations on or beyond the C. M. St. P. & P. Railroad east of the Twin Cities, for the year 1953.

Q. Where does the overwhelming preponderance of the lumber and forest products traffic of the Milwaukee Road originate, or is received from connections?

A. In the State of Washington.

Q. And is there any substantial amount which originates east of the Montana-Dakota State line, or is received from connections—pardon me.

A. Received from connections east?

Q. Let me reframe the question. I think I may have confused you a little bit.

Is there any substantial amount in comparison with the total lumber and forest products movement which either originates or is received from connections at stations east of the Montana-Dakota line?

A. No, there is not.

Q. Now, then, to go back for a moment to Exhibit No. 130: Are the totals shown at the bottom of each of the sections of those exhibits—do they represent all of the cars, either of lumber and forest products, on the one hand, or other commodities, on the other, which are interchanged with our connections at the Twin Cities?

A. No, the statement does not reflect traffic interchanged [fol. 3773] with the Chicago Great Western or the Soo Line, which is quite substantial.

Mr. Rockwood: Which is what?

The Witness: Quite substantial.

By Mr. Maguire:

Q. And where does the Milwaukee Railroad in Minnesota connect with the Illinois Central?

A. At Albert Lea and Lyle, Minn.

Q. The Illinois Central, by the way, does not reach the Twin Cities, does it?

A. No, sir.

Q. Is there a movement in substance of lumber and forest products, and other commodities, which are interchanged with the Illinois Central either at Albert Lea or Lyle?

A. Yes, there is quite a substantial movement.

Q. To get the complete picture, it would be necessary, if you wanted to show all that was interchanged, to take these other companies whom you have mentioned, other than the four systems mentioned in your exhibit?

A. That is right.

Mr. Maguire: May we go off the record a moment, Mr. Examiner?

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

Mr. Maguire: You may cross-examine.

[fol. 3774] Mr. Rockwood: Mr. Examiner, I have seen these exhibits for the first time this morning, and I would like to have an opportunity to run through them. So far as I am concerned, I might be able to cross-examine this afternoon, but if your understanding is such that there will be further cross-examination by counsel for the North Western tomorrow, it might be well to defer Mr. Nickels' examination by all counsel until tomorrow, if that is convenient with other counsel.

Mr. Maguire: Frankly, I think it would be much better, because I can just foresee what may happen. A man comes in here green to the record, and doesn't have the benefit of other cross-examination, and we are liable to have very repetitive or fishing or exploratory cross-examination on his part. I think it would expedite matters if Mr. Nickels' cross-examination were deferred entirely until tomorrow.

Exam. Dishman: He will be available tomorrow?

Mr. Maguire: Yes, sir.

Exam. Dishman: All right. The witness is excused temporarily.

(Witness excused.)

Mr. Maguire: I will call Mr. C. E. Crippen.

Exam. Dishman: You have previously been sworn?

Mr. Crippen: Yes, sir.

Mr. Maguire: It will be understood the offering and ruling upon the exhibits will be withheld until Mr. Nickels' [fol. 3775.] completion of cross-examination?

Exam. Dishman: Yes.

C. E. CRIPPEN was recalled and testified as follows:

Direct examination.

By Mr. Maguire:

Q. Will you state again your position with the Milwaukee Railroad, Mr. Crippen?

A. I am general manager on the Milwaukee Railroad, for lines west of Mobridge, S. D.

Q. And did you testify in this proceeding, and, of course, were sworn, at the hearing starting in Chicago last November?

A. Yes.

Q. Did you hear the testimony of Mr. C. F. Croffut, trainmaster of the S. P. & S. Railway, and superintendent G. L. Slorah, of the Northern Pacific Railway Company, with respect to the actual manner of interchange of cars coming off the S. P. & S. to the Milwaukee Road at Spokane?

A. I did.

Q. And with particular reference to the testimony commencing on pages 3138 of Mr. Croffut's testimony, and pages 3154 and 3163 of the transcript, with reference to Mr. Slorah's testimony, as to the practicability of setting out cars in the Ayre Street yard of the Northern Pacific at Spokane, while the S. P. & S. shuttle service was on its way to Yardley, rather than taking the cars into Yardley and pulling them back into the Ayre Street yard.

[fol. 3776] Did you hear, that testimony, and have you since examined the transcript?

A. I have.

Q. I would ask you something further on a general matter as to your experience in terminal operations for the Milwaukee Railroad.

A. I have served as assistant trainmaster and trainmaster in the Twin City terminals at Minneapolis and St. Paul, later returned as superintendent of terminals at the Twin Cities, served as trainmaster in Milwaukee terminal, Milwaukee, Wis.; later returned as general superintendent, having jurisdiction over terminal operation—

Q. Where?

A. At Milwaukee.

I was later general superintendent of terminals, having jurisdiction over the operations at Chicago terminal and all terminals on the system.

Q. And as to the volume of traffic and volume of movement through the Twin City terminals, Milwaukee, and Chicago, how does that compare with the volume of movement through Spokane, Wash.?

A. The volume of traffic at Twin Cities and Milwaukee and Chicago is substantially greater than the volume at Spokane.

Q. Now, then, are you familiar with the track layout and the manner of operation in the vicinity of the Erie Street [fol. 3777] Yard of Northern Pacific, and also the so-called Milwaukee interchange, which are shown in a map heretofore introduced as Exhibit 63, offered by Witness Croffut?

A. Yes.

Q. Do you have a copy of that map before you, or do you need to refer to it?

A. I don't need it. I do have a copy.

Q. From your experience as an operator in heavily used terminals, what is your opinion as to the practicability and feasibility of dropping off cars for interchange to other railroads at the Erie Street yard by the S. P. & S. shuttle locomotive, rather than hauling those cars into Yardley, which is shown on the map, and then later having them hauled back by a Northern Pacific switch crew to the Erie

Street yard, and thence to the Milwaukee interchange tracks or other interchange tracks?

A. In my opinion, it is entirely practical and feasible to set out an Erie Street yard with the eastbound shuttle, operating between Scribner and Yardley; the crossing of the Northern Pacific and the Union Pacific at the point known as U. P. Tower or N. P. Tower, which is just northwesterly of the letter "C," on Exhibit 63, is an interlocked crossing. Just easterly of the crossing of the U. P. track is an interlock crossover between the eastbound Northern Pacific main tracks and just west of the crossing of the U. P. track is an interlock switch to the east end of Erie Street yard.

[fol. 3778] Q. Could I interrupt you a moment?

The U.P. track is shown as the joint Milwaukee O.W.R. & W. track, I think it is called on the map, which is shown in yellow.

A. That is correct. The Northern Pacific main track is shown in green.

It would be a simple operation for an eastbound S. P. & S. shuttle train, having the cars for connecting lines or foreign lines, to come up to the interlocking, hang on to the three or four cars for foreign lines, cut them off and pull eastward on the eastward main track, go back through the interlock cross-over and the interlock connection to the east end of Erie Street Yard, set the cars off in Erie Street yard, and go back via the reverse route, on to its train and proceed.

Such a movement not to exceed three or four cars, as has been testified would be the maximum, should not require more than 12 or 15 minutes.

Q. Suppose you had more than three or four cars. What difference in time and in the operation would there be?

A. If there were more cars it would take a little longer to make the same movements. The movements would be identical. The line-up on the interlocking plant would be the same, but by virtue of additional cars the movement would take additional time.

Q. Well, would it take any substantial amount of additional time?

[fol. 3779] A. No, it would be a negligible amount of additional time.

Q. Now, then, do you have any information as to the number of movements per day made over these interlocked crossings?

A. There are approximately 60 movements a day during a normal day. They may get up to 80 movements a day during periods of heavier business.

Q. That is, when you count movements do you count just simply movements over the Northern Pacific or movements over the yellow line on Exhibit No. 63, or is that a total of all movements?

A. That would be a total of all movements through the interlocking.

Mr. Rockwood: That is U. P., Milwaukee, and over the Northern Pacific tracks?

The Witness: Yes. It would be all movements through the interlocking limits.

By Mr. Maguire:

Q. How does that compare in number with movements over interlocked—I don't know if I use the right term—interlocked crossings, at other points within your experience?

A. It is a comparatively modest volume of movements, compared with some other interlockings, with which I am familiar. Our Tower A-2 at Western Avenue in Chicago, for example, has approximately 2,400 movements in a 24-hour period. Our Washington Avenue crossing in Milwaukee has approximately 140 movements in a 24-hour period, so that the volume at the N.P.-U.P. crossing in [fol. 3780] Spokane, running 60 up to possibly 80, seems rather insignificant.

Q. I believe Mr. Slorah made some comment in connection with the feasibility of dropping these cars off at Erie Street, as to possible interference of hot-shot or through trains of the Northern Pacific itself in making that crossover.

Have you made any observations on that subject, and what did you find out?

A. I believe Mr. Slorah's testimony was that if an S. P. & S. shuttle train stopped to set out at Erie Street yard, it would delay following movements. If there were a following movement which might be delayed, and which the dispatcher did not want delayed, it would be a simple dispatching matter to put the S. P. & S. shuttle on a siding and let the following move past the S. P. & S. movement.

The time consumed in the set-out is relatively small, and it would be a simple matter of handling by the dispatcher to meet that situation.

Q. Are there ample sidings in the vicinity of the trackage in question, of which the S. P. & S. shuttle train could avail itself?

A. Yes.

Q. Now, Mr. Slorah's testimony—subject, of course, to check of the transcript—but, according to my recollection your normal arrival of your S. P. & S. shuttle train, or [fol. 3781] shuttle service with cars for interchange, was somewhere between 6 and 6:30 in the evening.

What is your experience as to whether the S. P. & S. does pull all of its cars for so-called foreign interchange or for interchange, rather, to other carriers, upon this shuttle which arrives in Spokane between 6 and 6:30 p. m.?

A. My observation is that the cars arrive on other shuttles, as well as the one that arrives at 6 or 6:30 p. m.

Q. And has that been your experience as to cars which we have received from the S. P. & S.—that is, indirectly from the S. P. & S., in interchange?

A. We receive cars from the S. P. & S. at interchange, at most any hour during the 24-hour period.

Mr. Rockwood: You receive them at interchange?

The Witness: That is correct.

By Mr. Maguire:

Q. Have you made any examination of waybills covering cars actually interchanged from the S. P. & S. to the Milwaukee at Spokane during any particular period?

A. Yes, I have, for the period September 15 to October 16, 1954.

Q. And have you had, or do you have in your possession photostat copies of typical waybills?

A. Yes.

Q. Covering those transfers, or interchanges, I should say?

A. Yes.

[fol. 3782] Q. Do those waybills bear a sample showing the date of arrival in Spokane of the car in question? That is, so far as the N.P., which is the switch line for the S. P. & S., and the S. P. & S. are concerned?

A. They do.

Q. Do they also bear a stamp of date and hour when the waybills were received by the Milwaukee?

A. They do.

Q. Have you examined the interchange reports of the Milwaukee as to when the cars, themselves, were actually placed on the interchange track?

A. I have.

Q. These cars in question?

A. I have.

Q. That does not show, as I understand it, upon the face of the waybills, themselves, however, but that information is taken from the interchange reports?

A. The time the car is placed on the interchange track does not show on the waybill, but does show on the interchange report.

Q. Have you correlated that information as to each of the cars about which you are going to testify?

A. I have.

Q. Can you give us any examples during this period—you may consult the photostats of the waybills and, of course, they will be available for examination by counsel—[fol. 3783] of cars which were placed on the Milwaukee interchange in time for movement out by the Milwaukee, the same day, instead of being placed between one and three a. m., as Mr. Slorah testified, which would have to move out on Milwaukee No. 64 the following night?

Have you some examples of cars of that type?

A. I have.

Q. And will you refer to those cars, the dates and the hours, etc.?

Mr. Rockwood: Give us the commodity, please.
Mr. Maguire: Surely.

By Mr. Maguire:

Q. Are these all eastbound cars?
A. Yes, sir.

Mr. Rockwood: Wait a minute, please.

(Discussion off the record.)

Exam. Dishman: On the record.
Mr. Rockwood: Would you read the question, please, so that I can get the enumeration which Mr. Maguire has asked for from each one of these waybills?
I may want him to supplement that by some additional information while he is reading the waybills.

(Question read.)

(Discussion off the record.)

Exam. Dishman: On the record.
Mr. Rockwood: I want in addition to the material Mr. Maguire asked for, and to save time so I won't have to dig [fol. 3784] it out in cross-examination, I suggest that he state the date of the waybill, the waybill number, point of origin on the S. P. & S., and the commodity.
Mr. Maguire: In order to save counsel the trouble of asking the question, I would just as soon put it in.
Exam. Dishman: All right.
Mr. Maguire: There is no reason why it shouldn't go in.

By Mr. Maguire:

Q. Will you bear in mind the admonition—

Mr. Rockwood: That was no admonition.

By Mr. Rockwood:

Q. Or suggestion, I should say.
A. Great Northern, 42290, moving on S. P. & S. waybill No. 2091, dated September 13, 1954, from Bingen-White Salmon, Wash., containing lumber. The waybill was re-

ceived by the Milwaukee at Spokane at 9:45 a. m., September 20. The car was received in interchange at 3 p. m. September 20th, and the car moved forward at 11:55 p. m., September 20, in train No. 64.

Q. Does the waybill bear upon its face a stamp showing the date that the car arrived at Spokane on the S. P. & S.?

A. Yes, it bears a stamp which—

Q. Just read the legend of the stamp which will be typical of all others.

A. The stamp reads "Northern Pacific, S. P. & S. Railway, September 20, 1954, passed Spokane, Wash."

Q. Are you familiar with stamps of that nature?

A. Yes.

[fol. 3785] Q. What does that mean when it says "passed Spokane, Wash." in ordinary railroad practice.

A. It means the car was received at the yard on that date.

Q. I see. Will you go on to the next one.

A. Great Northern, 52830, moving on Oregon Electric Railway Company, waybill No. 6880, dated September 16, 1954, from Eugene, Ore., containing lumber. The waybill was received by the Milwaukee Road at Spokane at 9:45 a. m., September 20. The car was received in interchange at 3 p. m., September 20, and the car forwarded from Spokane at 11:55 p. m., September 20, in train No. 64.

Q. And in that connection will you also read the date shown by that joint N.P.-S. P. & S. stamp—the date that the car purports to have arrived in Spokane?

A. The Northern Pacific, S. P. & S. stamp indicates September 20, 1954, passed Spokane.

Northern Pacific, 10973, moving on S. P. & S. Railway Bill No. 2134, dated September 16, 1954, from Bingen-White Salmon, Wash., containing lumber. The waybill was received by the Milwaukee Railroad at Spokane at 9:45 a. m., September 20. The car was received at 3 p. m., September 20. The car was forwarded at 11:55 p. m., September 20, in train No. 64.

Q. Did you give the date of arrival at Spokane on the S. P. & S.-N.P.?

A. I did not. The stamp on the waybill indicates the [fol. 3786] Northern Pacific-S. P. & S., September 20, 1954, passed Spokane, Wash.

Mr. Rockwood: May I—I don't want to interrupt very often, and will try not to, but when he says the Milwaukee received the waybill, what is the handling of the waybill which makes the time of receipt of the waybill by the Milwaukee significant time?

The Witness: The waybills are delivered by messenger and at the agent's office. The cars are delivered by switch engine at the interchange point, and the two deliveries do not take place simultaneously.

Mr. Rockwood: May I proceed a little bit more, Mr. Maguire?

Mr. Maguire: I object to any—

Exam. Dishman: Is this for clarification?

Mr. Rockwood: Yes. That is all.

Mr. Maguire: The thing is, counsel is asking the significance, the weight to be given to it. I think the witness is stating a fact. The weight to be given to it should not be addressed to the witness.

Mr. Rockwood: That is probably so.

Does that mean the car is at Yardley when the waybill is delivered to you, or is the car some place else?

The Witness: The usual procedure for a road movement of a freight car is that the waybill accompanying the freight car, and on arrival of the car at a yard or terminal the [fol. 3787] waybill also arrives.

Mr. Rockwood: So that that delivery of the waybill at Milwaukee means, does it, that the car has arrived at a terminal prior to the time the waybill is delivered to Milwaukee?

The Witness: That is correct. The car and the waybill arrives in the terminal. Then the waybill is delivered to the Milwaukee, and the car is subsequently or ultimately delivered to the Milwaukee.

Mr. Rockwood: Thank you. That is all I wanted to clarify.

By Mr. Maguire:

Q. As to that point, what would be the ordinary procedure if a car were dropped off at the Erie Yard, for example, on the way into Yardley, as to any time connection between

the arrival of the car in the area and the delivery of the waybill?

Mr. Rockwood: I object to that as improper. It assumes that a change in operation be made at Spokane, and you are asking him what would happen if a change were made by Spokane, at Spokane, that change involving operations by the Northern Pacific, S. P. & S. and Milwaukee. It may or may not ever be made.

Mr. Maguire: The purpose of the question, the witness has already stated that contrary to the testimony of the superintendent of the Northern Pacific, it is a practicable matter; instead of hauling cars all the way down to Yardley [fol. 3788] to drop off these interchange cars at the Erie yard, and if there is testimony that is a practical matter the question is to hook up between a movement of that sort, which we admit does not hurt at the present time, and the handling of the waybill. That will give all sides of the question.

Exam. Dishman: Do you understand the question?

The Witness: I do.

Exam. Dishman: The witness may answer.

The Witness: I would say that would be optional to the operating road. Two practical ways of handling it would be, one, leave the bills at Erie Street with the cars and handle the waybills by messenger from that point, or, second, take the waybills into Yardley and handle them from that point by messenger. It would be a matter of convenience and expediency for the operating road, I would say.

Mr. Golden: May I interrupt for a moment?

By operating road, you mean the Northern Pacific?

The Witness: Yes, they are the operating road in the Spokane terminal, as far as the S. P. & S. is concerned.

By Mr. Maguire:

Q. You mean the S. P. & S. line haul or switching movements, or what?

A. The terminal operation. That is, the switching of cars within the terminal, the interchange of cars within the terminal and the handling of the waybills within the terminal.

Q. You may go ahead.

[fol. 3789] A. C. B. & Q., 15122, moving on Oregon Electric Railway Company, waybill No. 5194, dated September 21, 1954, and September 22, 1954, containing lumber.

Mr. Rockwood: Where from?

The Witness: From Foster, Ore., and Sweet Home, Ore. The waybill was received by the Milwaukee Road at Spokane at 1:45 p. m., September 27th. The car was received at 5:15 p. m., September 27th, and the car was forwarded at 11:55 p. m., September 27, on train No. 64.

By Mr. Maguire:

Q. Will you state the arrival date as shown by the N.P.-S. P. & S. stamp?

A. September 27, 1954, at Spokane.

U.P. 102325, moving on Oregon Trunk Railway waybill No. OT-795, dated October 11, 1954, from Sherar, Ore., and Maupin, Ore., containing lumber.

The Northern Pacific-S. P. & S. stamp indicates passed Spokane October 14, 1954, and the waybill was received by the Milwaukee at Spokane at 7:45 a. m., October 14.

Mr. Rockwood: A. m.?

The Witness: Yes, sir.

Mr. Torinus: What time was that?

Mr. Rockwood: 7:45 a. m.

The Witness: The car was received at 2:30 a. m., October 14, and the car was forwarded at 11:55 p. m., October 14th, on train No. 64.

[fol. 3790] Mr. Rockwood: That is 55?

The Witness: Right.

Mr. Maguire: May I look at that last one a moment?

By Mr. Maguire:

Q. Just to clarify one thing about this last car, the U.P. car, I believe when you were describing it you put down Sherar, Ore., and Maupin, Ore. Upon examination of the waybill, a copy of the waybill itself, it appears to me that while the car originated at Sherar, it was billed at Maupin, Sherar probably being a non-agency station. Would that assumption be correct?

A. Yes. The same observation might be made for C. B. & Q. 15122, in which I indicated origin at Foster and Sweet Home, billed at Foster.

Mr. Rockwood: Billed at Sweet Home, I think.

Mr. Maguire: I was going to say billed at one of those points. The waybill doesn't say which it is, as in the case that I called to his attention.

By Mr. Maguire:

Q. During that same period have you found and do you have available here copies of illustrative waybills showing cars that were delayed by the switching line in turnover to the Milwaukee Road?

A. Yes.

Q. And will you give us the same information on that, taking care each time to show the date of arrival in Spokane, as shown by the N.P.-S. P. & S. stamp?

[fol. 3791] A. S. P. & S. 34005, moving on Oregon Electric Railway Company waybill No. 6644, dated September 9, 1954, from Eugene, Ore., containing lumber. The N.P.-S. P. & S. stamp indicates passed Spokane September 12, 1954.

The waybill was received by the Milwaukee Road at Spokane at 11:15 p. m., September 12. The car was received in interchange by the Milwaukee Road at Spokane at 11:15 a. m., September 22.

Q. That was ten days later?

A. Yes. The car moved forward at 11:45 p. m., September 22, on train No. 64.

Q. Did that waybill in question show any stamps, date stamps, showing that this car passed through other terminals or other points between September 12, when we received the waybill first, and September 22nd, or is there anything on that? It won't show it, would it?

A. Yes. The car was not received by the Milwaukee. The waybill was returned to the S. P. & S. for investigation, and the stamps indicate Willbridge, Ore., on September 15th, Vancouver, Wash., on September 16th, Pasco, Wash., on September 16th, Yardley on September 17th, and the car was then delivered to the Milwaukee on September 22nd.

Q. You find no stamps after September 17th?
A. No.

Mr. Maguire: Of course, I may add, gentlemen, that we do not contend that all of your interchanges are this bad. [fol. 3792] Mr. Rockwood: Is that one of the cars he considers typical of his examples?

Mr. Maguire: No, but it is typical of this kind of delay, and I think you will find some others in here, too.

By Mr. Maguire:

Q. Will you proceed.

A. B. & O. 275429, moving on S. P. & S. waybill No. 1311, dated September 16, 1954, from Veronia, Ore., containing lumber. The Northern Pacific-S. P. & S. stamp indicates passed Spokane September 20, 1954. The waybill was received by the Milwaukee at Spokane at 9:45 a. m., September 20. The car was received in interchange by the Milwaukee at 11:50 p. m., September 20, and the car moved forward at 11 p. m., September 21, on No. 64.

Q. Did train No. 64 operate on September 20?

A. Yes, it did.

Q. Why did the car not go out on No. 64, on the 20th?

A. The car was received at 11:50 p. m., September 20, and No. 64 departed Spokane at 11:55 p. m., September 20. The car was received too late to remove from the interchange track and get into the train in time for the departure.

Mr. Rockwood: Are my notes correct in the waybill was received at 9:45 p. m.?

The Witness: A. m., September 20.

By Mr. Maguire:

Q. In comparison, you testified about car G.N. 42290, where the waybill was similarly received at 9:45 a. m. on [fol. 3793] September 20th, and the car was received at 3 p. m., September 20, the same date, and moved out that night on No. 64; is that correct?

A. That is correct.

Q. All right. Will you go ahead.

A. C. B. & Q. 15329, moving on S. P. & S. waybill No. 2137, dated September 16, 1954, from Bingen-White Salmon, Wash., containing lumber. The Northern Pacific-S. P. & S. stamp indicates passed Spokane, Wash., September 20, 1954.

The waybill was received by the Milwaukee at Spokane at 9:45 a. m., September 20. The car was received 11:50 p. m., September 20. The car was forwarded at 11 p. m. on September 21.

Another example of a car received at 11:50 p. m., September 20, our No. 64 departing at 11:55 p. m. September 20.

Q. Can this car similarly be compared as to receipt of waybill, time of receipt of waybill, with the car you last testified about, which I believe was a B. & O. car, was it not?

A. Yes.

Q. That came in on the same drag, apparently, did it, according to those figures?

A. Yes.

Q. You mentioned for comparison with the B. & O. a Great Northern car, 42290, where we received a waybill at 9:45 a. m., the same time, on the same date as the B. & O. [fol. 3794] car, and this last car mentioned, about which you are presently testifying, and those cars were received in interchange at 3 p. m. instead of 11:50 p. m. That is, the G.N. car was received at that time, and I would also ask you to look at G.N. 52830. Is that in the same category?

A. Yes. On the two Great Northern cars, the waybills were received at 9:45 a. m., September 20, and the cars were received at 3 p. m., September 20th.

Q. And also while you are on that will you look at Northern Pacific 10973, which you have already testified, about, where your waybill was received at the same hour and the same date as these other cars, but the car was received at 3 p. m. instead of 11:50 p. m.; is that correct?

A. That is correct.

Q. All right. Will you go ahead.

A. GATX 52629, moving on S. P. & S. waybill 2219, dated September 23, 1954, from East Pasco and Pasco, Wash., containing gasoline. The Northern Pacific-S. P. & S. stamp

indicates past Spokane at September 24, 1954. The waybill was received by the Milwaukee at Spokane at 11 p. m., September 24th. This car was received by the Milwaukee at 3:45 a. m., September 26, and the car was forwarded at 4 p. m., September 26, in No. 64 extra.

Mr. Rockwood: What is the time of departure?

The Witness: Four p. m., September 26.

[fol. 3795] The Great Northern 44562 moving on Oregon Electric Railway Company waybill 5108, dated September 16, 1954, and September 17, 1954, from Foster, Ore., and Sweet Home, Ore., containing lumber. The S. P. & S. stamp indicates passed Spokane, Wash., September 21, 1954.

The waybill was received by the Milwaukee at Spokane at 3:45 p. m., September 21. The car was received at 2 p. m., September 22, and the car moved forward at 11:45 p. m., September 22, in train No. 64.

Exam. Dishman: Is this a good place to stop, Mr. Maguire?

Mr. Maguire: I think it would be.

Exam. Dishman: We will take a short recess.

(Short recess.)

Exam. Dishman: The hearing will be resumed, gentlemen.

By Mr. Maguire:

Q. I think you had just finished with car G.N. 44562.

A. Right.

Q. And you had started on N.P. 10699.

A. I had not.

Northern Pacific 10699, moving on S. P. & S. waybill No. 1334, dated September 20, 1954, from Vernonia, Ore., containing lumber, the Northern Pacific-S. P. & S. stamp indicates passed Spokane, Wash., September 23, 1954. The waybill was received by the Milwaukee at Spokane at 7:45 a. m., September 23. The car was received at 5:30 p. m., [fol. 3796] September 24th, and the car was forwarded at 11:55 p. m., September 24th, on No. 64.

Q. The car was received 5:30 p. m., September 24th?

A. Yes.

Q. Go ahead.

A. GATX 59147, moving on S. P. & S. waybill No. 2218, dated September 23, 1954, from East Pasco and Pasco, Wash., containing gasoline. The Northern Pacific-S. P. & S. stamp indicates passed Spokane, Wash., September 24, 1954. The waybill was received by the Milwaukee at Spokane at 10:55 p. m., September 24th. The car was received at 3:45 a. m., September 26th, and the car moved forward at 4 p. m., September 26, in No. 64's extra.

Mr. Rockwood: Forwarded when?

The Witness: Four p. m. September 26.

Illinois Central 27302, moving on S. P. & S. waybill No. 2436, dated September 24, 1954, from St. Helens, Ore., containing a wood product.

Mr. Rockwood: How is it designated, sir, the text?

The Witness: Boards or sheets, flats, ground wood preservatively treated not plasticized with added resin, not exceeding 10 percent by weight compressed.

Mr. Rockwood: That is wallboard, probably, Firetex.

Mr. Maguire: On that point, I think we will accept your explanation. Firetex is shorter.

The Witness: The Northern Pacific-S. P. & S. stamp in- [fol. 3797] dictates the car passed Spokane, Wash., September 27, 1954. The waybill was received by the Milwaukee at Spokane at 11 p. m., September 27th. The car was received by the Milwaukee at 1 p. m., September 29th, and the car moved forward at 11:45 p. m., September 29th, in No. 64.

Pennsylvania 104696, moving on S. P. & S. waybill No.—

Mr. Rockwood: Excuse me, Pennsylvania Railroad what?

The Witness: 104696. Moving on S. P. & S. waybill No. 3462, dated September 28, 1954, from Linnton, Ore., containing lumber; Northern Pacific-S. P. & S. stamp indicates the car passed Spokane, Wash., October 2, 1954.

The waybill was received by the Milwaukee at Spokane at 1 p. m., October 2. The car was received at 3:30 a. m., October 3, and the car was forwarded at 6 p. m. October 3, in No. 64's extra.

Mr. Torinus: What was the time it was forwarded?

The Witness: Six p. m., October 3d.

Great Northern 48—

Mr. Rockwood: How many more of these are there?

Mr. Maguire: There are five of them, aren't there?

The Witness: There are 11 in this group.

Mr. Rockwood: How many groups have we got, a lot more groups?

The Witness: One additional group.

Mr. Rockwood: I was wondering if these couldn't be [fol. 3798] tabulated in exhibit form.

Mr. Maguire: Mr. Examiner, the handling of a case of this sort, of course, has a number of difficulties in connection with it, and one of the most frustrating difficulties is that counsel is in Chicago and the witness is in Seattle, and it was not until—I had no opportunity to confer with the witness on this testimony until his arrival in Washington yesterday, and I think it would unduly delay tabulations.

This is not going in at all slowly. It is going in quite expeditiously, and I would much rather be spared the difficulties incident to getting these tabulated and placed in the record here.

Counsel asked for some detail, which at first we did not plan to put in, but we are glad to put it in, and I don't—I think there are some of these cars that can be considered in groups.

Is that right, Mr. Crippen?

The Witness: Yes.

Exam. Dishman: Is there any way it could be shortened?

Mr. Maguire: I think they are going just about as speedily as we can, considering the extra information counsel wants. It will all be in the record, and he can make notes of it. We will go slowly for him.

Mr. Rockwood: I agree short of a tabulation there is no quicker way to put it in than you are doing it.

[fol. 3799] Exam. Dishman: All right, let us proceed, then.

By Mr. Maguire:

Q. If conditions were normal here, that is, if I had had access to the witness, and we were in the same locality, we could have gotten these up in tabular form, but under the circumstances it was impossible to do so.

A. Great Northern 48785, moving on S. P. & S. waybill No. 1410, dated September 29, 1954, from Vernonia, Ore., containing lumber. The Northern Pacific-S.P.S. stamp indicates passed Spokane, Wash., October 2, 1954. The waybill was received by the Milwaukee at Spokane at 9:30 p. m., October 2. The car was received at 9:20 a. m., October 3. The car was forwarded at 6 p. m., October 3, in No. 64's Extra.

Mr. Rockwood: Forwarded when?
The Witness: Six p. m., October 3d.

By Mr. Maguire:

Q. As to the next cars, Mr. Crippen, will you give the car numbers and the additional data asked for by Mr. Rockwood separately as to these cars, and then I notice you have the same hours and dates for receipt of waybill, receipt of cars, and forwarded for the next two cars. Can you just, without repetition, cover those two?

A. Northern Pacific 13364 and Northern Pacific 13412, moving on S. P. & S. waybills Nos. 1408 and 1400, respectively, from Vernonia, or, for example—

Mr. Rockwood: What was the date of the waybill?
The Witness: September 29, 1954, containing lumber:

[fol. 3800] By Mr. Maguire:

Q. Both cars containing lumber?
A. Yes, sir.

The Northern-Pacific-S. P. & S. stamp on both waybills indicate the cars passed Spokane, Wash., October 2, 1954. The waybills for the two cars were received by the Milwaukee at Spokane at 6:30 p. m., October 2. The cars were received at 5:40 p. m., October 3, and both cars moved forward at 6 p. m., October 3, on No. 64's extra.

Great Northern 48417, moving on S. P. & S. waybill No. 1398, dated September 29, 1954, from Vernonia, Ore., containing *lumber*. The Northern Pacific-S. P. & S. stamp indicates passed Spokane October 2, 1954. The waybill was received by the Milwaukee at 5:45 p. m., October 2; car received 3 a. m., October 4; car forwarded—

Mr. Rockwood: What time?

The Witness: Three a. m., October 4th.

The car was forwarded at 11:55 p. m., October 4th, on No. 64.

Mr. Maguire: Can we go off the record just a minute?

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

By Mr. Maguire:

Q. Mr. Crippen, the next three cars which you are going to mention, as I have just confirmed with you—.

Mr. Maguire: You don't mind my leading this to shorten [fol. 3801] this?

By Mr. Maguire:

Q. —are all shipments of lumber, are they not?

A. Yes.

Q. And have the same waybill dates?

A. Yes.

Q. Dates of issuance, we will say, and are they all the same point of origin?

A. No.

Q. All right. Then give the car numbers and on the first car give all of the data, and on the two succeeding cars, where the data is the same, say so, and merely state what differences there are in dates or point of origin.

Mr. Rockwood: Off the record.

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

The Witness: B. & O. 271775, moving on Oregon Electric Railway Company waybill No. 5404, dated October 1, 1954, from Sweet Home, Ore., containing lumber.

By Mr. Maguire:

Q. Just a moment.
Off the record?

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

[fol. 3802] The Witness: New York Central 101734, moving on S. P. & S. waybill No. 1423, dated October 1—

Mr. Rockwood: The waybill number?

The Witness: 1423, dated October 1, 1954, from Vernonia, Ore., containing lumber.

Great Northern 24324, moving on S. P. & S. waybill No. 1425, dated October 1, 1954, from Vernonia, Ore., containing lumber. The S. P. & S.-Northern Pacific stamp indicates these three cars passed Spokane October 5, 1954. The waybills for the three cars were received by the Milwaukee at Spokane at 7:30 a. m., October 5. The three cars were received at 9:30 a. m. October 6, and the cars moved forward at 11:50 p. m., October 6th, in No. 64.

By Mr. Maguire:

Q. The waybills were received at 7:30 a. m., October 5?
A. Yes.
Q. Will you go to your next cars?
A. Great Northern 48926, moving on Oregon Trunk Railway bill OT-779, dated October 6, 1954, from Sherar, Ore., and Maupin, Ore., and N.P. 11352, moving on S. P. & S. waybill No. 3596, dated October 6, 1954, from Linnton, Ore., both containing lumber.

The Northern Pacific and S. P. & S. stamp indicate these two cars passed Spokane, Wash., October 6, 1954. The waybills for the two cars were received by the Milwaukee at [fol. 3803] Spokane at 11:30 p. m., October 6th. The cars were received at 10 a. m., October 10th, and the two cars were forwarded at 11:45 p. m., October 10th, in train No. 64.

TCX 7923, moving on S. P. & S. waybill 2348, dated October 9, 1954, from East Pasco, Wash., and Pasco, Wash., containing gasoline. The Northern Pacific-S. P. & S. stamp indicates the car passed Spokane, Wash., October 10th.

The waybill was received by the Milwaukee at Spokane at 11 p. m., October 10th. The car was received at 1 a. m., October 12th, and the car moved forward at 11:59 p. m., October 12th, on train No. 64.

CG-5302, moving on Southern Pacific waybill NASP-50270—

Mr. Rockwood: Would you say that again?

The Witness: NASP-50270, dated October 4, 1954, from Austa, Ore., and Eugene, Ore., containing lumber.

The Northern Pacific-S. P. & S. stamp indicates passed Spokane October 10, 1954, and the waybill was received by the Milwaukee at Spokane at 10:30 p. m., October 10th. The car was received at 1 a. m., October 12th, and was forwarded the same night at 12:30 a. m., October 13th.

Mr. Rockwood: Excuse me. It was received at 1 a. m. on the 12th?

The Witness: That is right.

Mr. Rockwood: You say it was forwarded the same night?

The Witness: Yes, 12:30 a. m., October 13th.

Mr. Maguire: It wasn't the same night. It was the next [fol. 3804] night. You asked him whether it was the same night?.

Mr. Rockwood: He said it was the same night, forwarded the same night.

Mr. Maguire: If I could go off the record a little bit and confer with the witness I think we could shorten up this next group.

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

By Mr. Maguire:

Q. Mr. Crippen, have you made a further classification of waybills on cars interchanged which would have in

your opinion any bearing upon your testimony as to the practicability and promptness of interchange if the cars were dropped off in the Erie Street yard, as you testified was practicable instead of taking them over to Yardley?

A. I have waybills for several cars which may have arrived on the S. P. & S. shuttle train, connecting with S. P. & S. No. 276, which I understand from testimony arrives Yardley around 6 or 6:30 p. m., which cars were delivered to us at the interchange tracks at Spokane too late to connect with No. 64, the day of arrival, but which had they been set out at Erie Street yard by the S. P. & S. shuttle might reasonably have been interchanged to the Milwaukee in time to connect with our No. 64 out of Spokane the same day of arrival at Spokane.

Q. Let me ask you in the first place here, to do full jus- [fol. 3805] tice to our friend from the Northern Pacific: If this shuttle arrives and your cars for interchange are dropped off at Yardley, is five or six hours an unreasonable time under ordinary operating conditions for that car to be hauled from Yardley back to Erie Street yard and placed on the Milwaukee interchange?

A. No, I think that is a reasonable time.

Q. I see. And can you give us the general range of time, either on or in the small hours of the morning following the date of arrival, when these cars which you are about to describe were placed upon our interchange track?

A. Many of the cars were delivered between 1 a. m. and 4:30 a. m. A few of them were delivered later in the day.

Q. Later the following day, you mean? After arrival in Spokane?

A. Following arrival in Spokane, yes.

Q. In order to shorten the details, in view of what we are attempting to show by these cars, will you simply give the car numbers and the date, according to the N.P.-S. P. & S. stamp, they arrived in Spokane.

Mr. Rockwood: May I inquire, does the waybill simply show a stamp, Pasco, Kansas? It does not show the time of arrival?

Mr. Maguire: It does not show the time of arrival. We are giving you the benefit of the doubt there. We assume it arrived on the 6 to 6:30 p. m. shuttle service which Mr.

[fol. 3806] Slorah said would not permit spotting on the Milwaukee interchange until before 1 to 3 a. m.

Mr. Rockwood: That is a wild assumption. They may not have arrived even on the date it shows passed Spokane. The waybills may have been delivered before the car got to Yardley.

Mr. Maguire: That is a matter of argument which I assume, if the Examiner permits surrebuttal, you may wish to put in.

Mr. Rockwood: We may develop that on cross-examination. I am objecting to this line of testimony because the witness does not have in his possession information to show the time of arrival at Yardley.

Mr. Maguire: I think the witness' testimony has been that in the ordinary course of business the bill-of-lading accompanies the car. That is, is on the same train or track that the car is in.

Mr. Rockwood: May I inquire for the purpose of developing, do you know whether the fact is that the waybill rides the same train that the car is in, or whether the fact is the waybill is mailed from Vancouver after the car passes Vancouver to Spokane and is immediately turned over to the Milwaukee before the car arrives in Spokane? Do you know what the fact is?

The Witness: No.

Mr. Rockwood: I object, then, to this line of testimony on the ground that the witness has no evidence before him on which he can base statements of fact as to the time of [fol. 3807] arrival of any of these cars in Spokane.

By Mr. Maguire:

Q. Let me pursue that question a little further in answer to that objection.

Do you know how in the ordinary course of business in railroading such bills of lading are handled? Are they mailed ahead of the train as a normal thing?

Mr. Rockwood: I think that is entirely immaterial. What the ordinary course of business is is not material here. The fact that is material is what the S. P. & S. does.

I object.

Mr. Maguire: There is no evidence in the record aside from the question of counsel. Counsel can disqualify a witness to testify against normal ordinary course of operation with any trick question.

Exam. Dishman: Let the witness answer.

Mr. Rockwood: He has answered the question, that he has no evidence of time of arrival in Yardley.

Mr. Maguire: Also you objected to my question. I would like to have an answer to that.

Exam. Dishman: Mr. Maquire's question, do you understand it?

The Witness: Yes.

Mr. Rockwood: I don't remember what the pending question is.

Mr. Maguire: You objected to it.

[fol. 3808] Mr. Rockwood: I mean the precise nature of it.

Exam. Dishman: Please read the question, Mr. Reporter.

(Question read.)

Exam. Dishman: Would you repeat the question?

Mr. Maguire: Yes.

By Mr. Maguire:

Q. In the ordinary normal course of conduct, in railroad operation, will you state whether waybills are mailed to the destination, or interchange point, in advance of the train, or whether they normally travel with the train?

Mr. Rockwood: Objected to as immaterial. The only thing that is material is what the practice is on S. P. & S.

Mr. Maguire: That is a matter for counsel to prove. You can't prove it by asking a question.

Mr. Rockwood: Nor do you lay a basis for testimony on what the Pennsylvania or New York Central may be doing.

Exam. Dishman: The witness may answer for what it may be worth.

What is your answer?

The Witness: The normal procedure is for the waybill to accompany the car and in response to Mr. Rockwood's ques-

tion, if I knew whether the S. P. & S. mailed waybills from Vancouver to Spokane, my response was no. They may mail some, I don't know. I do know that the S. P. S. crews do handle waybills into Spokane. Whether it is all the waybills or not, I don't know.

[fol. 3809] By Mr. Maguire:

Q. In response to this general blanket question of Mr. Rockwood as to whether all waybills were not mailed from Vancouver, would the normal railroad operation on a shipment originating at Bingen and White Salmon, Wash., be to send the waybills to Vancouver and mail them from there?

A. It would not seem normal to me.

Q. Would it be normal on a shipment that originates on the Oregon Trunk Line, which is on the opposite side of the Cascade Mountains from Vancouver, Wash., to mail those waybills from Vancouver?

A. It would not seem normal to me.

Mr. Rockwood: May I inquire, would it be normal if they adopt the practice of mailing waybills, to mail waybills from Wishram and to mail Oregon Trunk waybills from Wishram to Spokane?

The Witness: Normally, the waybill moves with the car and is essential to handling cars at terminal and interchange points.

I would say the normal procedure would be to keep the waybill with the car.

Mr. Rockwood: I take it you don't know what the S. P. & S. does?

The Witness: In isolated cases with reference to Wishram, Ore., or Bingen, I don't know what their practices are with relation to related or isolated cases.

[fol. 3810] By Mr. Maguire:

Q. Have you made investigation yourself as to whether or not your S. P. & S. waybills normally accompany the cars?

A. Yes, sir. I have been at the Yardley and Hill yards when S. P. & S. crews arrived and deposited waybills.

Q. Will you enumerate the cars in question and the dates that the stamp shows that the car passed Spokane?

Mr. Rockwood: My objection is standing, Mr. Examiner.

Exam. Dishman: Yes, the record will show.

The Witness: New York Central 64890, the Northern Pacific-S. P. & S. stamp indicates passed Spokane September 15, 1954, and for brevity I will just refer to the car number and the date on the following ones to indicate the same information.

Mr. Rockwood: We want waybill numbers, please.

The Witness: New York Central 64980, the waybill is No. 3260.

Mr. Rockwood: S. P. & S.?

The Witness: S. P. & S.

S. P. 141162, S. P. & S. waybill 2261, September 8th; C. R. I. & P. 134106, S. P. & S. waybill 2190, September 23. GATX 58620, S.P. & S. waybill 2262.

Mr. Rockwood: Where was that from?

The Witness: Pasco, Wash., and Pasco, Wash.

Mr. Rockwood: That was a gasoline load, wasn't it?

The Witness: Yes.

[fol. 3811] Mr. Rockwood: What was the date it passed Spokane?

The Witness: S.P. & S. stamp indicates received Yardley, Wash., September 29, 1954.

Pennsylvania 104312, S. P. & S. waybill 1491, October 9. Pennsylvania 27505, S. P. & S. waybill 2367, October 9th.

Lehigh Valley, 5677, Oregon Trunk Railway waybill 02782, October 10th.

M. & St. L., 54382, Oregon Trunk Railway Bill 2229, October 10th.

D. & M. 2971, S. P. & S. waybill 1224, October 10th.

New York Central 123849, Oregon Electric Railway waybill 5496, October 10th.

C. & N. W., 82936, Oregon—

Mr. Rockwood: What is that number?

The Witness: 82936, Oregon Electric Railway waybill 7567, October 11th.

GATX 52578, S. P. & S. waybill 2386, October 14th.

Mr. Rockwood: Was that from Pasco?

The Witness: Yes.

Milwaukee 27314, S. P. & S. waybill 1519, October 14th.

Milwaukee, 18913, S. P. & S. waybill 1523, October 14th.

Milwaukee 20099, Oregon Electric Railway waybill 7659, October 15th.

Missouri Pacific 34381, S. P. & S., waybill 1242, October 15th.

[fol. 3812] By Mr. Maguire:

Q. That completes the list of cars in that category?

A. Yes.

Mr. Maguire: You may cross-examine.

Mr. Rockwood: Are you finished?

Mr. Maguire: Yes.

Mr. Rockwood: May I defer cross-examination until I have a chance to examine the waybills and the interchange reports the witness has been referring to?

Exam. Dishman: You mean after lunch time?

Mr. Rockwood: This is a long job that he has given to us. Probably tomorrow morning.

Exam. Dishman: Will the witness be available tomorrow?

Mr. Maguire: The witness will be available tomorrow.

Mr. Rockwood: Incidentally, may I ask two or three questions for clarification?

Do these waybills that you have, the photostats—are they complete to show both sides of the waybill?

The Witness: They are. If the reverse side of the waybill was blank there is a notation on the reverse side of the photostat which indicates that.

Mr. Rockwood: Do those show in each case time of departure in your train 64 or 64 extra?

The Witness: They do not, except by pencil notation which I have put on the photostat.

[fol. 3813] Mr. Rockwood: From what source did you obtain that information?

The Witness: From the dispatcher's train sheet.

Mr. Rockwood: Do you have the dispatcher's train sheet here with you?

The Witness: No.

Mr. Rockwood: Where does 64 go, from where to where?

The Witness: It runs from Spokane to St. Marys, Idaho.

Mr. Rockwood: Do these waybills show the time of arrival of those cars at St. Marys?

The Witness: No, they do not. These cars are not carried to Spokane, or to St. Marys on No. 64, but are placed in train No. 264 at Plummer Junction.

Mr. Rockwood: Does the waybill show the stamp of time of arrival at Plummer?

The Witness: No, they are not stamped at Plummer Junction.

Mr. Rockwood: Do you have any data available with you here in Washington by which we could determine the time of arrival at Plummer Junction of any of these cars that you have been talking about?

The Witness: No, sir.

Mr. Rockwood: In what train are they placed for movement east out of Plummer Junction, 264, is that it?

The Witness: Yes.

Mr. Rockwood: That is your through train all the way to [fol. 3814] Chicago?

The Witness: Yes.

Mr. Rockwood: Do your waybills show the stamp of the time of departure of these cars from Plummer Junction in 264?

The Witness: No, sir. There are no stamps placed on the waybills at that point.

Mr. Rockwood: Do you have train sheets or other data available with you in Washington, in the City of Washington, which shows the time of arrival and departure of these cars at Plummer?

The Witness: No.

Mr. Rockwood: I think I asked you, you do not have the original records or any records other than notations made by you on the waybills, themselves, of time of departure from Spokane, with you?

The Witness: That is correct.

Mr. Rockwood: Do you have with you the interchange reports?

The Witness: Yes.

Mr. Rockwood: Are those interchange reports complete for all cars handled in a pertinent period, or interchange reports simply to cover the cars that you have discussed in your direct testimony?

The Witness: All cars.

Mr. Rockwood: In what period?

[fol. 3815] The Witness: September 15th to October 16th, 1954.

Mr. Rockwood: I think you prefaced your testimony with a statement that the specific waybills that you discussed are typical examples of cars interchanged between the S. P. & S. and the Milwaukee in this period of approximately one month from September 15th to October 16th, 1954; is that correct?

A. That is right.

Mr. Rockwood: Are the files which you have here complete to show all cars, waybills for all cars so interchanged?

The Witness: The interchange report is complete for all cars interchanged. The photostatic copies of waybills are for only those cars which I have testified about.

Mr. Rockwood: Do you have a tabulation with you to show the data for all the cars handled in this period, similar to that material which you have given us for so-called typical cars in this period?

The Witness: No, sir.

Mr. Maguire: I may say, Mr. Rockwood, that we have, I believe, a complete set of the waybills, but all of the data which Mr.—we cannot supply all of the data which Mr. Crippen supplied in connection with these specific cars which he mentioned, but I have the waybills. I have got them right here in my brief case, if you want to look at them. I think that is a complete file.

I am not sure, but there will be certain data from the [fol. 3816] dispatchers' sheets which was not procured, and is not available at the present time, and I do not propose to furnish it. If you want to look at these others you can look at it.

Mr. Rockwood: You had no intention of furnishing it?

Mr. Maguire: I had no intention of furnishing it.

Mr. Rockwood: Or making it available to others.

I think it would facilitate matters, Mr. Examiner, if we could have an opportunity to look at the records, the limited records which this witness now has available in connection with the cars as to which he made specific remarks, and I can't do that during the noon hour. I will want the evening to compile some information from them, possibly.

Exam. Dishman: Well, the witness will be available, as I understand it, for cross-examination tomorrow.

Mr. Maguire: He will be available.

Exam. Dishman: Is that all of the witness at this time?

Mr. Rockwood: I think that—you say you have the waybills, Mr. Maguire, for all the cars interchanged in this month's period?

Mr. Maguire: Yes. Just a few of them. He has most of them there, as a matter of fact.

Mr. Rockwood: May we have the complete file to show the waybills for all the cars on this, during this period?

Mr. Maguire: I will put a tag on these for your convenience showing that these were not used, and the whole [fol. 3817] works may be turned over to you right now.

Mr. Rockwood: That would be delightful.

Exam. Dishman: Is that all of this witness at this time?

Mr. Maguire: I think that is all at this time, yes.

Exam. Dishman: Witness excused temporarily.

(Witness excused.)

Mr. Maguire: May the record show that I am turning over to Mr. Rockwood the waybills from Mr. Crippen, to which he testified to, together with some others, which, according to my information, are the complete list of waybills for cars interchanged during this period.

Mr. Rockwood: And the interchange reports?

Mr. Maguire: Yes.

Exam. Dishman: Let us go off the record.

(Discussion off the record.)

Exam. Dishman: We will recess for lunch and reconvene at 1:30.

(Whereupon, at 11:50 a. m., a recess was taken until 1:30 p. m. of the same day.)

[fol. 3818] AFTERNOON SESSION

Exam. Dishman: The hearing will be resumed, gentlemen.

Mr. Maguire: I will call Mr. H. O. Engel.

Exam. Dishman: This witness has been previously sworn.

H. O. ENGEL was recalled and testified as follows:

Direct examination.

By Mr. Maguire:

Q. Mr. Engel, you have heretofore been sworn and have testified in this proceeding, have you not?

A. Yes, sir.

Q. And have you been in attendance at all of the hearings in this case?

A. Yes, sir.

Q. I would first invite your attention or direct your attention toward Exhibit No. 46, and the accompanying testimony of Witness Lear, which was at the St. Paul hearing.

Mr. Rockwood: Will you wait until we get a copy of the exhibit before us, please?

Mr. Maguire: Oh, yes.

By Mr. Maguire:

Q. Were you present when Mr. Lear testified and with particular reference to his explanation of Exhibit No. 46, or that portion of it which commences at page 2843 of the transcript?

A. Yes, sir; I was.

Q. And have you since read that testimony?

[fol. 3819] A. Yes, sir.

Q. And have you observed particularly what Mr. Lear treats as competitive traffic as defined in that exhibit?

A. Yes, sir.

Q. And from your own observation and knowledge of the situation, what, if any, comments do you have to make as to the accuracy of the segregation made both by Mr. Lear in his Exhibit 46 and Mr. Webb in his Exhibit 47, the segregation between competitive and non-competitive traffic?

A. Well, both exhibits purport to segregate competitive and non-competitive traffic handled by the Great Northern and Northern Pacific, respectively, from and to points on the S. P. & S., according to their definition of competitive, viz., and I quote "Involved traffic as defined above which could presently move under equal rates from origin to destination in connection with the Milwaukee road through its western junctions of Spokane or Moringo, Wash."

Particular mention is made by Witness Lear at pages 2857—

Mr. Torinus: Are you reading from a prepared statement, Mr. Engel?

Mr. Maguire: Mr. Engel, as Mr. Ehlen did at the St. Paul hearing, is reading from a memorandum which has been considerably—not be faithfully followed in his testimony.

Mr. Torinus: Does Mr. Engel have a copy that we may have?

Mr. Maguire: I think he has a copy of his original draft, [fol. 3820] which, as I say, will not be followed strictly in this case, and since you gentlemen were kind enough to give me a copy of Mr. Ehlen's copy of rough draft of his testimony, I shall be very happy to reciprocate if Mr. Engel has a copy.

Do you have a copy?

The Witness: I have a copy. As a matter of fact, I have a couple of copies. I don't know that they are all marked up alike. I had to do some revising.

I can give them to them for what they are worth. I can give the stenographer one.

Mr. Maguire: I don't think the stenographer needs one.

The Witness: I have two copies that I would risk turning over. They are not too complete.

Mr. Maguire: If you want them you may have them for what they are worth. There are numerous changes in them and the copies do not purport to be correct.

Mr. Torinus: With that understanding, I think it would be a convenience.

Mr. Maguire: Surely. You may have one.

The Witness: I was in the second paragraph.

I am not sure how far I got, but I can start that after the quotes.

Particular mention is made by Witness Lear at pages 2857 and 2858 of the transcript to one of two principal movements, viz. 4,603 cars of lumber from S. P. & S. origins [fol. 3821] to Official territory, which are treated as competitive traffic for the reason that rates are also applicable by Marengo, Wash. The basic, and with certain limited exceptions, the only test of eligibility for treatment as competitive therefor was the existence of the bare rate from a particular origin to a particular destination by Marengo or Spokane, Wash. Such test of eligibility for the treatment of traffic as competitive disregards the attendant terminal services, transit privileges, etc., generally applicable in connection therewith, and in the case of eastbound lumber originating at stations on the Southern Pacific, in Oregon, or on the Union Pacific in Washington and Oregon, routed by Marengo, Wash., ignores important transit conditions, the denial of which largely nullifies the existence of such rates and routing for competitive purposes.

These are, one, the privilege of milling, etc., at finishing or manufacturing plants on the Southern Pacific or Union Pacific Railroads, adjacent to the source of the rough sawn lumber. Tariff authorities for non-application by the Marengo gateway are items 3500 and 3514, page 34, Agent W. R. Watson's I.C.C. 896, and Section 1 of his I.C.C. 5113.

The privilege of stopping to complete logging at mills on the Southern Pacific or Union Pacific en route between origin and Marengo, Wash.: Tariff authorities for denial of such privileges are the restrictive provisions of Agent Watson's I.C.C. 885, and section 2 of S.P. Company I.C.C. 5113.

[fol. 3822] Paragraph 3: The availability of diversion of shipment while en route to any given potential destination

in the eastern part of the United States, or Canada, and the availability of the broadest possible outlet or destination territory for products of lumber shipped to points on the Milwaukee, or to Mississippi River mill work plants for further manufacture.

The rates on lumber via Marengo are limited generally to (a) stations on the Milwaukee Road; (b) stations on the Milwaukee Road as connections north of the Chicago-Omaha line; (c) destinations in Official territory by across-lakes route.

This leaves by far the largest part of the United States and eastern Canada without rates via Marengo.

By Mr. Maguire:

Q. Mr. Engel, may I interrupt there: In the testimony heretofore given in this case, have you elaborated more in detail as to the description of the rates available via Marengo from the U. P. and S.P. origins?

A. Yes, sir; I have. In my testimony in Portland I outlined pretty fully the scope of the existing rates, and to some extent the history of those rates, and as compared with the existing rates via the—off the S. P. & S. line.

Q. You may resume.

A. The rates via Marengo are, therefore, not, as a practical matter, competitive. First, for the reason that there are neither milling or complete loading privileges in connection therewith in the origin territory on movements [fol. 3823] direct to consuming points, and, secondly, no prudent transit operator would seriously consider routing via Marengo, because he must protect himself to the fullest extent possible to avail himself of any market which presents itself. As a practical matter, and to be competitive with other manufacturers similarly situated, transit has little or no value unless it has the broadest possible outlet, or destination territory. That is, as broad as others engaged in the same transit business.

Q. Can I interrupt again, Mr. Engel: When you use the word "transit operator" in this preceding statement would you explain more definitely just what sort of operator you have in mind? I am asking that question because

the word "transit" has been used in a couple of difference senses in the testimony in this case.

A. Well, such a transit operator that I have in mind is one who either mills, sorts, stores, completed loading, etc., in transit, who at time of shipment to a point east of Marengo doesn't know the ultimate destination.

Q. You mean the ultimate destination. Has he sold the lumber at the time it leaves?

A. No. That is the crux of the whole thing. He doesn't know when he takes it into his mill for sorting the ultimate destination or does he when he starts a car out for diversion, he doesn't know where he is going to wind up with that car.

Q. Well, now, a party at one of these transit stations— [fol. 3824] that is, where lumber is either sorted or milled, or otherwise processed in transit, when they buy a car of lumber to be used, or to be processed or assorted or stored, or anything of that kind, does that lumber afterward under the transit rules move out as a full car, or may it be distributed over one or two or more cars?

A. Yes, that is a very common practice, that the credit on a single inbound car may be used at the balance rate on two or more outbound cars, so that very often the distribution of that single inbound car may be widely separated.

Q. And when you say that your operator, transit operator, does not know where the outbound lumber is going, is it because he starts what is called sometimes a transit car, or roller car, such as referred to, out after the transit operations have been completed, or because he is buying this lumber or acquiring this lumber in some way and then for subsequent sale and outbound movement? Which is it, or is it both? Do you follow me?

A. I am sorry.

Mr. Maguire: Read the question to him, will you?

(Question read.)

The Witness: I think it could conceivably be both.

By Mr. Maguire:

Q. All right. Go ahead.

A. Statement is made by Mr. Tein, at page 3679 of the transcript "That transit is not used to quite the extent that [fol. 3825] it has been to quite the extent that it has been indicated in this case that it is used."

And I should like to state that approximately 35,000 carloads of lumber moved to points in the Pacific Northwest within the jurisdiction of the Transcontinental Freight Bureau, Seattle, Wash., were recorded for transit with that Bureau during the year 1954.

My investigation develops that such recordings are on the increase. Neither does Mr. Tein's statement referred to there square with his statement at page 3597 to the effect that restriction placed against transit privileges "generally cancelled the application of joint rates from points on the Milwaukee's Metaline Falls and Bellingham Northern Lines, over through routes in connection with the Northern Pacific, Great Northern, and Spokane International Railroads."

I might also mention as illustrative of the importance of milling-in-transit to the lumbering industry in the Pacific Northwest, the case referred to by Mr. Tein at pages 3597, 3598 of transcript, dealing with loop routing at Albeni Falls, Idaho.

Q. That is A-l-b-e-n-i; is that right?

A. Yes, sir.

During the period of three months prior to publication of the loop routing, 250 cars of lumber moved from Metaline Falls, Wash., to Albeni Falls, Idaho, and there is before the [fol. 3826] I.C.C. special docket application No. 225291, seeking authority to protect the subsequently established joint through rate basis.

The milling and transit privilege was an absolute prerequisite to that movement, and there are countless such cases in the Pacific Northwest.

Q. Have you also examined Mr. Tein's Exhibit 112, entitled "Lumber Mill Capacity at Stations in Washington, west of Spokane and in Oregon," etc., which was introduced at page 3687 of the transcript?

A. Yes, sir.

Q. Did you hear Mr. Tein's testimony explaining the exhibit?

A. Yes, sir.

Q. Have you since read the transcript of testimony?

A. Yes, sir.

Q. What comments have you from your own knowledge and observation of the general situation out there as to the accuracy and the validity of this exhibit as to potential tonnage available to the Milwaukee, or otherwise?

A. Well, here, again, as to the destination of availability of tonnage, the same pattern is followed in that exhibit in compiling potential production on the Southern Pacific and Union Pacific, available for movement via the Milwaukee, through Avery, Idaho.

Incidentally, I might point out that in connection with [fol. 3827] listing, not only by Cabinet, Idaho, but also by Leonia, Idaho, origins on our line bear reference to non-application of transit privileges, but notation is not shown indicating similar restrictions by the Milwaukee through Avery, Idaho, for example, from Southern Pacific and Union Pacific origins.

Our records disclose, as shown by Witness Nickels' Exhibit 129, that we received at Marengo during the months of February, May, August, and November, the year 1953, only 505 of lumber and related articles originating on the Southern Pacific and Union Pacific, and of this number only seven cars originated on the Southern Pacific in Oregon, and ten cars on the Union Pacific Railroad, destined to points in Official Territory. I.e., the territory in which Mr. Lear's Exhibit No. 124 shows 47.314 percent of the lumber originated on the S. P. & S. terminates.

Using this figure of 17 cars, the estimated annual movement was 51 cars out of a total of 187,141 carloads originated on the Southern Pacific, and 32,712 carloads originated on the Union Pacific in Oregon and Washington, in 1953, as also shown in Mr. Lear's Exhibit No. 124.

This demonstrates the effect of the limitations in destination territory and transit privileges via the S.P., U.P., Marengo routes, upon the movement of lumber by our line.

Q. Could I interrupt you a moment, Mr. Engel: It will save some question later on.

This sum of 505 cars, is that obtained by adding across [fol. 3828] the totals in the columns under Union Pacific and also under Southern Pacific which are headed—the horizontal line—"Total, Four Months"?

A. Yes, sir. The sum of those figures is 505.

Yes, it is.

Q. Then of the seven cars on the Southern Pacific, and the ten cars on the Union P. ific, to points in Official territory, where will those figures be found?

A. Well, they are the combination of the last two columns opposite the total four months. In other words, you will notice the first total four months, fifth line down of this tabulated matter, show each column; the last two shows five and five. That is a total of ten.

Q. On the Union Pacific?

A. On the U.P., and down under S.P., total four months in the last two columns, the first one is one and the last one is six, or a total of seven, or a total of 17 for the four months, and I simply multiplied that by three to arrive at the 15.

Mr. Rockwood: May I ask a question for clarification?

Comparing those figures, in case of the Southern Pacific—no. I think I understand what you mean.

By Mr. Maguire:

Q. Go ahead, Mr. Engel.

A. We are, as stated in connection with Exhibits 46 and 47, at the disadvantage of being unable to solicit shipments accorded milling in transit or complete loading privileges [fol. 3829] to destinations to which we do have rates via Marengo.

Q. By that do you mean milling in transit or completed loading privileges west of Marengo?

A. That is right.

Q. On the originating lines?

A. That is right.

Q. Go ahead.

A. And such destination territory as so limited as to preclude any thought of shipper venturing via that route

for diversion or other transit privileges at stations east of Marengo.

This is not the case with the Great Northern and Northern Pacific Railroads, both of which directly from Portland, Ore., or through the S.P. & S., have a full line of rates with transit privileges from Southern Pacific origins to transcontinental territory, generally. The S.P. transit tariff, I.C.C. 513, and Agent Waton's I.C.C. Nos. 885 and 896, carry no restrictions against transit privileges via Portland, Ore., thence G.N., N.P., or S.P. & S. Railways.

Q. There is no limitation against transit on the Southern Pacific as originating line?

A. That is right.

Q. I just wanted to clarify that.

Go ahead.

A. Due to the limitations referred to above, and as borne out by the movement shown in Witness Nickels' Exhibit 129, [fol. 3830] substantially all of the mills on the Southern Pacific and Oregon, and Union Pacific in Oregon and Washington, should be disregarded as potential tonnage for movement through Avery, Idaho. If this is done, the total on page 210 to destinations east of Chicago, for example, would be reduced 26,750,000 feet, or to 10,305,000 feet, as compared with tonnages presently available to the Great Northern through Leonia, as shown in column 9, of 41,385,000, and to the Northern Pacific, through Cabinet, of 42,227,000 feet.

Q. Have you finished?

A. I think that is all.

Q. Now, did you hear the testimony of Witnesses Small, for the Chicago & North Western System, Christianson of the Rock Island Lines, Swanson of the M. & St. L., and Larson of the C. B. & Q. Railroad, as to possible diversion of traffic from those lines in case the prayer of the complainant should be granted in this case?

A. Yes, I did.

Q. Have you since refreshed your memory from examination of the transcript of testimony?

A. Yes, sir.

Q. From your own experience, what comment do you have as to the validity of their conclusions?

A. Before I go on with that, I just noticed I quoted the wrong figures in this reference to movement through Leonia [fol. 3831] and Cabinet. I took columns 9 and 11 figures, which are the Twin Cities and west, when I should have taken columns 10 and 12, which would change the figures—should I correct those?

Q. Yes. Will you correct those now?

A. Which would change the figures to 39,120,000 via the Great Northern, and 40,707,000 feet by the Northern Pacific.

Q. Those finally are your correct figures?

A. Yes.

For the record, I should like to have corrected certain erroneous and misleading references to existing rate applications which carry with them the implication that they would be taken if we prevail in this action.

The references are more or less similar in character, and shall be referred to collectively in the interest of brevity. The general theme of each of these witnesses is that existing eastbound rates on lumber to destinations on their lines carry wide open routing, and that the Milwaukee would be able to short-haul them by carrying traffic received from the S. P. &. S. beyond Minnesota transfer, and deliver to them at interior Iowa junctions.

See Mr. Small's testimony at page 3087, of transcript, to this general effect; Mr. Christiansen's reference to short-hauling is line via Des Moines to Newton, Iowa, at page 3215 of transcript. Mr. Swanson's reference to wide open routing to common points on the Milwaukee, with other lines, at [fol. 3832] page 3253 of transcript, and Mr. Larson's statement that it is unlikely that the C. B. & Q. would receive traffic at Minnesota Transfer, but instead might receive it at a junction nearer the destination of St. Louis, for example, at East Moline, Ill. The fact of the matter is that rates on lumber to this entire midwestern area are named in Agent W. J. Pruther's I.C.C. 1545, and that it contains specific routing through to each destination. Such rates do not apply by the Milwaukee through to such interior Iowa junctions, but invariably are confined to the so-called Missouri River crossings, and any departure therefrom is necessarily made only upon the specific concurrence of the destination line.

A case in point is that of routing via Minnesota Transfer, C. M. St. P. & P., to East Moline, Ill., thence C. B. & Q. to St. Louis, Mo., which was authorized for reasons best known to themselves, and it is significant to note that to this particular point the C. B. & Q. also has routing with the Rock Island lines between Minnesota Transfer and Burlington, Iowa.

To C. B. & Q. territory generally, however, rates apply only via Minnesota Transfer, or so-called Missouri River gateways.

Q. Could I interrupt you a minute, Mr. Engel: Where you refer to this routing that the C. B. & Q. has with the Rock Island Lines between Minnesota Transfer and Burlington, Iowa, who has the haul under that arrangement between the Transfer and the Burlington?

[fol. 3833] A. The routing is Minnesota Transfer, C. R. I. & P., Burlington, Iowa, C. B. & Q.

Q. Then the Rock Island has the haul between the Transfer and the Burlington?

A. Yes, sir.

Mr. James: Transfer is capitalized?

Mr. Maguire: Yes, Minnesota Transfer and Burlington.

The Witness: This would also be the case under new rates from S. P. & S. origins in connection with the intermediate route of the Milwaukee Road.

I might also point out that tariff-naming rates to destinations in the Southeast, Agent W. J. Sprueter's I.C.C. 1568,—

By Mr. Maguire:

Q. Could I interrupt for just a minute: For your sake, Mr. Reporter, Sprueter is spelled S-p-r-u-e-t-e-r.

A. —carries specific routing over Western Trunk Lines, from Missouri River crossings to East St. Louis, and other Southeastern gateways which precludes any possibility of short-hauling those lines.

Mr. Swanson, at page 3279 of the transcript, referred to the Milwaukee bypassing the Twin Cities in routing via Chaska, Minn., and that the Milwaukee thus hauls beyond Minnesota Transfer at the expense of the M. & St. L.

From reference to Mr. Swanson's Exhibit 68, it will be seen that alternative routing via both Minnesota Transfer and Chaska, Minn., is provided uniformally between the [fol. 3834] Milwaukee and the and the M. & St. L., and as the M. & St. L. receives the same revenue for haul from Chaska as it does from Minnesota Transfer, despite the 20-mile shorter haul, in accordance with the provisions of M. & St. L. percentage sheet 33-B, Milwaukee division sheet B-4646—

Q. 4616?

A. 4616, excuse me—the Chaska route is therefore synonymous with Minnesota Transfer, and would appear to be of mutual benefit to all concerned.

Q. In the testimony of the defendants did you note other cases of descriptions of tariff applications which should be corrected?

A. Yes, sir; I did.

Q. And will you state what they are?

Mr. Musenbrock: There has been a wide use of language in tariff applications to be corrected. I have no objection to this witness giving his interpretation of it, but I don't want the record to be in such shape so that it will be understood that is his only correct interpretation, and that all other witnesses were wrong on it. I am going to object to the form of the question.

Exam. Dishman: The record will so show.

Mr. Maguire: This witness contends, of course, that these other interpretations of the tariffs given by other witnesses are incorrect, and, of course, you are in position, [fol. 3835] and you may argue that they were correct.

Mr. Musenbrock: Let us not argue from a record that is wrong, though. When you state what is the correct tariff interpretation, or what is the correct tariff provision, that is one thing, but his interpretation of a tariff that this Commission itself can read is something else again.

If you want him to give his interpretation, that is perfectly all right.

Exam. Dishman: The record will indicate that.

Mr. Maguire: I don't believe we are overreaching on that. I think it is understood if your witness says this is correct, he means in his opinion that is correct.

Mr. Musenbrock: That is all right with me, if that is the way he proceeds.

By Mr. Maguire:

Q. Will you proceed, Mr. Engel?

A. I have several in mind.

First, the question raised by Witness Hart, beginning at the bottom of page 3715 of the transcript, with reference to my testimony at pages 131 and 132 of the transcript dealing with the diversion of export shipments by Spokane and the S. P. & S. to Pasco for account of the Government.

What I said was that while we had joint through export rates to Astoria and Portland, Ore., by C. M. St. P. & P., Spokane, S. P. & S., storage-in-transit at Pasco under—under such rates is rendered impracticable account assess-[fol. 3836] ment of combination of domestic rates on Spokane, Wash., in the first instance, which in all cases would materially exceed the through rates to the Pacific Coast terminals.

Mr. Hart directed attention to provision contained in section 22 quotations covering storage at Pasco, which authorizes protection of rates applicable via the N.P. Railway direct on shipments moving via C. M. St. P. & P., and diverted via Spokane, Northern Pacific Railway to Pasco, Wash. Said provision is quoted below:

"Northern Pacific Railway. Shipments routed via the C. M. St. P. & P. Railroad, consigned to points reached via the C. M. St. P. & P. Railroad, Spokane or west of Spokane, Wash., and moving via established routes of the C. M. St. P. & P., may be diverted while in transit at Spokane, Wash., or east of Spokane, Wash., to Pasco, Wash., via Spokane, Wash., thence N. P. Railway to a North Pacific Coast port under the through rate provided in Item No. 6, and the transit privilege which is applicable hereunder on traffic moving via the N. P. Railway from or through its terminals in Minnesota, North Dakota, or Wisconsin. Exception: On shipments moving under the provisions of this paragraph the rate applicable on the inbound movement thereof to Pasco, Wash., will be the same rate as is authorized hereunder from point or port of origin to Pasco, Wash., on

traffic moving by the N. P. Railway from or through its eastern terminals in Minnesota, North Dakota, or Wisconsin."

[fol. 3837] It will be seen this deals only with routing by the N. P. Railway and confines movement beyond Pasco via the N. P. Railway. No provision is made therein for routing via S. P. & S. from Pasco to Portland nor to Astoria, Ore., account N. P. Railway not reaching that port.

I might mention in this connection that there was in effect during World War II authorization of the same rate as in effect by established routes on shipments moving westbound by the C. M. St. P. & P. and diverted by Spokane and the S. P. & S. to Pasco which, in conjunction with the storage-in-transit provilege above referred to enabled protection of established tariff rates to Pasco in the first instance on diverted shipments only, and the export rates on subsequent movement, thence to Portland or Astoria, or, for example, via the S. P. & S.

This is covered by section 22 quotation AAR 12-A. That quotation was, however, cancelled in its entirety May 5, 1948.

Second is the answer made in the affirmative by Witness Ehlen at page 3412 of the transcript to question as to whether rates on potatoes from Oregon Trunk points apply via the U. P., Marengo, thence east over the Milwaukee.

Q. Just a moment.

Mr. Maguire: Off the record?

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

[fol. 3838] Mr. Rockwood: What page is that?

Mr. Torinus: 3412.

The Witness: Mr. Ehlen offered no tariff authority to substantiate this statement. This question and answer was made in connection with Exhibit No. 84, and others, including Exhibit No. 88 of Witness Ehlen, which showed nine carloads of potatoes from stations on the Oregon Trunk, terminating in Chicago during the 1953-54 shipping season.

Contrary to Mr. Ehlen's statement, the only single factor through rates via the Union Pacific, Marengo, Wharton, and Milwaukee Road from the O. T. territory to Chicago are as previously testified, those on lumber and related articles.

Third, is the exception taken by Witness Tein, at page 3656 to my testimony dealing with the provisions of Item 815 of Agent W. J. Sprueter's I.C.C. No. A-3859, which I had stated prohibited carriers from assuming toll messages by telephone of shippers relative to routing or other railroad service in connection with shipments of freight.

Mr. Tein refers to item 80 of the tariff as follows: "Item 80 of the tariff carries the following: The provisions of this tariff apply on interstate and intrastate traffic at stations as follows: In connection with tariffs making reference to this tariff by I.C.C. or State Commission numbers, except as otherwise provided in individual items," and stated that said item 815 contains no other provisions.

[fol. 3839] Q. Pardon the interruption. That quotation, was that a quote from Mr. Tein's testimony which you were reading us there?

A. Yes.

Q. I just wanted to get that clear.

A. This latter statement is contrary to fact, inasmuch as it does actually contain a note 1 reading as follows:

"Note 1. The provisions of this item will also apply at points within the territorial scope of this item, in connection with all tariffs which provide that shipments moving thereunder are subject to terminal and/or other special services as published in tariffs lawfully on file with the I.C.C. or State Commissions."

In view of such note, it is obviously unnecessary for the applicable eastbound lumber tariff to specifically refer by tariff or I.C.C. number to Agent Sprueter's I.C.C. number A-3859 to invoke the provisions of Item 815 thereof.

Q. Mr. Engel, just to clarify something, the Note 1, the quotation of Note 1 ended after the words "State Commissions," did it not?

A. Yes, sir. I am sorry. That should be end quote.

Q. I am not sure the record shows this specifically, but do you have general supervision of rates on the Milwaukee Railroad lines west of Mobridge, S. D.?

A. Yes, sir; I do.

Q. And I wish to call your attention to Docket 4839, which [fol. 3840] was marked for identification as Exhibit 76 of Mr. Ehlen.

I ask you whether that was handled by your office for the account of the Milwaukee?

A. Yes, sir; it was.

Q. Will you explain that docket as comes to your knowledge?

A. As explained by Mr. Ehlen, this was a follow up of intention of the S. P. & S. announced at the Portland hearing, page 1988 of the transcript, to propose publication of rates from all stations on the S. P. & S. to destinations on the Milwaukee east of Spokane, to Mobridge, S. D., via S. P. & S., Spokane, and the Milwaukee, on the prevailing basis applicable to common and cross-country points on other lines.

This docket was before the lines at their regular freight traffic committee meeting in April, and duly approved, with minor modifications, but publication has not yet been made.

A companion proposal, TCFP application D-2223, covers request of the Continental Forest Products Company, Cedar Rapids, Iowa, also referred to at the Portland hearing, page 1991 of the transcript, for establishment of rates on lumber from Santiam Branch of the Oregon Electric to destinations on the Milwaukee, east of Mobridge, S. D., via O. E., S. P. & S., Spokane-Milwaukee, to the same extent as presently in effect from Albany, Ore., was recommended and stands approved as of June 2, 1955.

COLLOQUY BETWEEN EXAMINER AND COUNSEL

Mr. Torinus: Mr. Engel, before you read the next para- [fol. 3841] graph, I would like to interpose an objection.

Mr. Maguire: How do you know he is going to read it? I told you this was a rough draft.

Mr. Torinus: If he is not going to read it, I won't interpose an objection, but assuming that he is going to read it as he has been following this statement, I would like to show this paragraph to the Examiner and enter my

objection to his reading it into the record as an argumentative statement.

Mr. Maguire: An argumentative statement?

Mr. Torinus: Yes.

Mr. Maguire: That would be a novelty in this case.

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

Mr. Torinus: I would like to make a formal objection, Mr. Examiner.

Exam. Dishman: Go ahead.

Mr. Torinus: I will object to Mr. Engel's proceeding to read the paragraph on sheet A-13, which apparently he is about to read, as argumentative, and as speculating on the motives of the defendants and the Great Northern and Northern Pacific in making certain rate proposals, which has no place in testimony of a witness of this kind.

I have no objection, of course, to Mr. Engel's stating what was done, but I object to his attempting to characterize the [fol. 3842] motives of the defendants.

Mr. Maguire: I think, Mr. Examiner, in order to present this fairly before the Commission, I am going to make an offer of proof at this time for the record, and I offer to prove the following statement to be made by the witness. I am quoting: This is a formal offer of proof:

"While we strongly suspect that the reason for inviting or advancing these rate proposals at this time is to make a few eleventh hour concessions to alleviate as far as possible shipper complaint, and while we do not regard them as by any means satisfying the complaint, we, nevertheless, were entirely willing to concur in any proposal, even though inadequate, which will tend toward the liberalization of the rate policies of the S. P. & S. with its attendant benefits to the shipping public."

That is the end of the offer of what I expect to show by this witness, and I wish to say in defense of that that we are certainly, I believe, the S. P. & S., have stated their object in offering these rates. As a matter of fact, Mr. Ehlen expanded upon that at quite a great deal and through insinuations that the Milwaukee had blocked establishment

of these rates in the past, and that the S. P. & S. wanted to put these rates in for various reasons. They gave the reasons in their own testimony. We are now giving reasons why we have consented to the proposals of the S. P. & S., and also to the proposals made on behalf of the [fol. 3843] Continental Forest Products Company before the Transcontinental Freight Bureau. I think it is equally relevant to Mr. Ehlen's expression of reasons which he gave at the Portland hearing.

Exam. Dishman: You say you intend to prove this by this witness?

Mr. Maguire: No. I am offering that statement from this witness. I am making a formal offer of that statement by the witness. I am just making a formal offer of proof.

There has been an objection made, and I wish to have the record show, instead of having a veiled reference by counsel to a certain paragraph of a statement which is not in evidence, I wish to show what the ruling is being made on at this time. That is why I make the offer.

Exam. Dishman: What do you have to say?

Mr. Torinus: I have no objection to Mr. Engel's stating that the Milwaukee was willing to except to the rate publication, for whatever reasons the Milwaukee might have, but he can say that without characterizing our reasons for commenting upon what reasons he thinks we might have had for suggesting the rate publication.

Mr. Rockwood: Mr. Examiner, I wish to join in the objection of Mr. Torinus and I will so wish to take exception to Mr. Maguire's characterization of Mr. Ehlen's testimony as argumentative. Mr. Ehlen did, in connection with the [fol. 3844] history of the Santiam, state facts as to what proposals were made to the Transcontinental Freight Bureau. He stated facts as to what carriers concurred in the proposal. He was about to state at one point his inference as to why the proposal was not finally approved by the Bureau, and was stopped. He was proposing to draw an inference that the Milwaukee had something to do with blocking the rates in the Santiam in 1931 or '32, and was not permitted to state it.

[fol. 3845] Mr. Maguire: If you read the record, you will find you are incorrect about that.

Mr. Rockwood: Here Mr. Maguire proposes to characterize action through the mouth of this witness, of the S. P. & S. The fact is what will control. Whatever the Milwaukee may think of the people that work for the S. P. & S. is beside the point.

Mr. Maguire: Counsel is incorrect in saying that Mr. Ehlen was stopped, because I have read the record. Mr. Ehlen said that the record made was that there it was a Pacific Coast terminal line which objected, and he said the Milwaukee is the only Pacific Coast terminal line that had any interest in there. That was in the record.

Mr. Rockwood: That is correct. The thing that was eliminated or which he was not permitted to say was that it is a fair inference that the Milwaukee, being the only other Pacific Coast terminal line interested, was the one which blocked it. He was permitted to state the fact that the Great Northern, Northern Pacific and Milwaukee were the only three Pacific Coast terminal lines interested in that. The Great Northern and Northern Pacific had concurred, and the only one interested which had not concurred was the Milwaukee. That is the fact.

Mr. Maguire: There was a pretty brutal inference in the language that Mr. Rockwood now admits.

Mr. Rockwood: A fairly plain inference. The witness [fol. 3846] was not permitted to state that.

Exam. Dishman: We have enough on the record. We are interested in facts here. I don't think Mr. Engel's statement as to the motive of the S. P. & S. should be in the record. The case will be argued.

Mr. Maguire: I will make the inference if he doesn't, Mr. Examiner.

Exam. Dishman: We have this on the record, but I can make the statement that the part that refers to the motives of the S. P. & S. will be given no consideration.

Mr. Maguire: May it be understood, then, the witness has not stated this part of the question in the record at the time. May it be understood that that is deemed to have been read into the record by the witness, or I can have him read it now and he can make a statement.

Exam. Dishman: It will be deemed to have been read in the record but will be given no—will certainly be given

no consideration. This is all in the record, and we can't strike it.

Mr. Torinus: I understand the state of the record is that Mr. Maguire has made an offer of proof and the Examiner has ruled that a certain portion of it should be denied.

Exam. Dishman: That is right.

Mr. Maguire: Disregarded.

Exam. Dishman: Disregarded.

[fol. 3847] Mr. Torinus: I certainly will object to having read into the record as the testimony of Witness Engel certain statements which the Examiner has ruled are improper.

Exam. Dishman: There is enough in the record, so let's proceed and eliminate that paragraph.

Mr. Maguire: The entire paragraph, Mr. Examiner? I am going to ask some questions with regard to that which may be objected to.

Exam. Dishman: Can't you bring it out by questions?

Mr. Maguire: Yes, that is what I will do.

By Mr. Maguire:

Q. Do you regard the proposal of the S. P. & S. as satisfying the complaint of the Milwaukee—

Mr. Rockwood: I will stipulate it does not satisfy all the request for relief contained in the complaint.

Mr. Maguire: Thank you for the offer. I will go ahead and develop my case in my own way.

By Mr. Maguire:

Q. In consideration of whether or not we would consent to the rate proposals in North Coast Docket 4839. and Transcontinental Freight Bureau, application D-2233, did you, as a rate policy officer of the Milwaukee, regard these proposals as by any means satisfying the complaint?

A. No, sir, I did not.

Q. Were you, however, willing to concur in these proposals?

A. Yes, sir.

Q. And why?

[fol. 3848] Mr. Rockwood: I object to that as immaterial. It appears that he has concurred.

Exam. Dishman: Your company has concurred?

The Witness: Yes, sir.

Exam. Dishman: Is that the answer?

Mr. Maguire: I want to know the reason why he concurred. It does not contain any inferences at all of any kind.

Mr. Rockwood: I object on the grounds it is immaterial.

Exam. Dishman: The witness may answer, for whatever it might be worth.

The Witness: We concurred in order that shippers on the S. P. & S. might have the benefit of the additional rates which would be provided. We can not regard—we did not regard that as at all sufficient for their purposes, but to the extent that it did provide some relief, we were willing to accept that.

By Mr. Maguire:

Q. Did you hear Mr. Ehlen's testimony in St. Paul with respect to the practice of his company as to changes in rates in which the S. P. & S. concurs or to which it is a party? I am referring particularly to page 3139 of the transcript, which reads in part that "The S. P. & S. traffic department takes no action with respect to changes in rates without the approval of the traffic officials of the Great Northern and Northern Pacific." Then there are certain exceptions, and so forth.

[fol. 3849] What has been your observation as a member and an attendant of the meetings of the North Pacific Coast Freight Bureau as to these statements of Mr. Ehlen?

Mr. Rockwood: Just a minute. In reading the answer which is anticipated to that question which is contained in Mr. Engel's draft, I object to the first sentence as calling for a conclusion of the witness, from conduct in meetings, where the witness has shown no knowledge of what has preceded the conduct of the individuals on which he is going to comment. There is no foundation laid.

Mr. Maguire: Of course an expert—and Mr. Engel is testifying as an expert, often testifies as to conclusions,

and so this is the behavior—he is testifying as to behavior of the S. P. & S. representatives at these meetings.

Mr. Rockwood: He can stick to facts but can't comment and argue the significance of the behavior of the individuals. I don't believe he is a psychologist when it comes to reading a tariff.

Exam. Dishman: Can you confine your answer to the facts?

The Witness: I believe so. The actions are public actions and I would think they should be accepted for their face value.

Exam. Dishman: Confine your answer to the facts and proceed.

By Mr. Maguire:

Q. So far as the actions of the S. P. & S. representatives [fol. 3850] at these meetings, will you describe them and the manner in which they act insofar as there be any reference to or servility so far as the Great Northern and Northern Pacific are concerned at the meetings?

A. As far as my observation goes, their representatives at those meetings are pretty much on their own.

Mr. Rockwood: I move that be stricken. There is no foundation for determining what they do at the meetings as a result of independent action on their own or as a result of action that has happened ahead of time.

Exam. Dishman: Can you start off again and explain what you mean, and be a little more specific than that?

The Witness: I am afraid they are just making a mockery out of the North Pacific Coast Freight Bureau, as if they have always gotten some instruction. They come in and sit in as one of the members, with full eligibility to vote.

Exam. Dishman: That is what you mean by "being on their own"?

The Witness: Yes, sir.

Mr. Rockwood: I move that the word "mockery of the North Pacific Coast Bureau" be stricken.

Mr. Maguire: That is ridiculous.

Mr. Rockwood: That is no more ridiculous than some of the motions you made, Mr. Maguire.

Exam. Dishman: That part of it may be stricken.

[fol. 3851] By Mr. Maguire:

Q. Do the S. P. & S. representatives speak up their mind as to subjects in which they are interested or not?

A. Yes, sir, they do.

Q. Have you seen them at the meetings whispering with the Great Northern and Northern Pacific representatives, apparently, or actually asking for instructions as to how to speak or how to vote?

A. Never.

Q. Now then, what is the general practice at the Bureau there, so far as discussions between carriers as to rate; that is, discussions which are tentative and informal before the actual deliberations of the Commission; does that practice exist?

A. Yes. That is a common practice. We have informal meetings continually, and outside the meetings, during the week, of the North Coast Bureau.

Q. When you say "informal meetings", do you mean actual meetings or conversations or what?

A. They are not meetings, as such. You might call them semi-social gatherings, where we talk over matters that are pending.

Q. Now, do other lines, lines other than the Great Northern or Northern Pacific, engage in any preliminary discussions as to rates between their respective lines and the S. P. & S.?

A. Yes.

[fol. 3852] Mr. Musenbrock: That is a broad general question. What other lines do you have in mind?

Mr. Maguire: Other than the Bureau.

Mr. Musenbrock: What bureau?

Mr. Maguire: The one we are talking about.

Mr. Musenbrock: Which ones are you talking about?

Mr. Maguire: If you had listened, you would have known. The North Pacific Coast Freight Bureau.

Mr. Musenbrock: Don't by inference bring in any North Pacific Coast lines, specifically the M. & St.L.

Mr. Maguire: You weren't in this conference.

Mr. Musenbrock: We were in it.

Mr. Maguire: You weren't in this question.

Mr. Musenbrock: We were in by inference in that question. You are just building up a long record.

Mr. Maguire: We had eight days of it at St. Paul.

By Mr. Maguire:

Q. We are talking about the North Pacific Coast Freight Bureau at this time. Let's start out and get this into words of one syllable. We are not talking about Western Trunk Line Bureau, who are not members of that Bureau at all. We are talking about members of the North Pacific Coast Freight Bureau.

Do member lines other than the Great Northern or Northern Pacific, to your knowledge, discuss with the S. P. & S. informally and before formal meetings of the [fol. 3853] committee the question of rates in which the S. P. & S. and the other member line or lines may have an interest, a mutual interest?

A. Yes, sir, we do.

Q. On those occasions do the other line or lines offer any suggestions to the S. P. & S. as to possible repercussions of any proposal that the S. P. & S. may have?

A. Yes, sir. We feel quite free to discuss those matters with the S. P. & S.

Q. Now then, there was reference made by Mr. Ehlen on page 3536 of the transcript as to admonitions of the Great Northern and Northern Pacific with respect to proposed reductions in grain rates. Do you recall that testimony?

A. Yes, sir.

Q. And what if anything about what Mr. Ehlen testified to is different than any other conversations on other instances between lines other than the GN or NP and the S. P. & S. on proposals?

A. I didn't regard that or the admonitions in that particular case a great deal different than many other

situations. Here was a line of rates that had been in existence for a number of years. As a matter of fact, I believe they were backed up by the 17,000 decision, and any departure from them was necessarily viewed pretty carefully, and yet if it was deemed that such reductions were necessary because of truck competition, we would naturally not be too serious in our opposition to them, [fol. 3854] but we would certainly point out the danger and the effect that it would have on other rates.

Q. Do you know whether the Milwaukee at the time of this proposal of the S. P. & S. that Mr. Ehlen referred to, that you discussed, whether the Milwaukee expressed some wisdom, some expression as to the wisdom of those reductions at that time?

A. I can't say we did at that time in that case.

Q. Will you resume your answer from your statement?

A. I might also say that the S. P. & S. has joined us in many rates via S. P. & S., Great Northern, Milwaukee, on an equality of rates from and to points which are competitive with routing via S. P. & S.-Northern Pacific. In those cases we negotiate the divisions with the S. P. & S. and Great Northern, entirely independent of the Northern Pacific Railroad.

To the limited extent that we have joint rates via direct connection with the S. P. & S. at Spokane, they have been negotiated and divisions have been worked out direct with the S. P. & S., and so far as we are concerned, without the knowledge or concurrence of either the GN or NP. While we do not know what the S. P. & S. do when it comes to considering and consummating joint rates and divisions between the S. P. & S. and ourselves, we do not take the matter up with the Great Northern or Northern Pacific, but take it up direct with the S. P. & S. and handle the conclusion with that line only. In other words, we never [fol. 3855] ask or obtain the concurrence of the GN or NP unless they are actually parties to the proposed rates.

Q. Do you recall the testimony of Mr. Ehlen with regard to the absence of an S. P. & S. representative from certain freight traffic committee meetings of the North Pacific Coast Freight Bureau during 1933?

A. Yes, sir.

Q. Do you recall that testimony?

A. Yes, sir.

Q. Was such absence unprecedented so far as the members of the committee were concerned?

A. No, sir, it was not.

Mr. Rockwood: I move that be made clear. Do you mean by that are there some meetings between them when less than a hundred percent are present or what do you mean?

The Witness: Yes, sir.

Mr. Maguire: I mean that, and also for a period of time.

By Mr. Maguire:

Q. Will you explain what is a normal or not unusual rate of absence from committee meetings from your experience?

A. Well, a meeting generally runs three or four days, and it is a very common practice for certain members to come in at a meeting at certain days of the meeting, when there are subjects to be brought up, and oftentimes a cer- [fol. 3856] tain member line will have no representation at all, and perhaps that will go on for several months. There is no significance attached to it, because they are interested only in their particular subjects.

Q. And when a member is absent from meetings, does that line continue its contributions to the expenses of the Bureau?

A. Yes, sir.

Q. And otherwise does that line maintain its eligibility of individual membership?

A. Certainly.

Q. And during the period in question, in 1933, did the S. P. & S., according to the records of the Bureau, discontinue contributions to the Bureau's upkeep?

A. No, sir, it did not.

Q. Did it drop its membership as member of the executive committee and traffic committee or whatever committee assignments it had during that time?

A. No, sir.

Q. It just didn't come to the meetings?
A. No, sir.

Mr. Rockwood: I move that be stricken.
Mr. Maguire: Why?
Mr. Rockwood: Conclusion.
Mr. Maguire: Why?
Mr. Rockwood: Your summarization of the witness' testimony: "just didn't come to the meeting", period. [fol. 3857] That is in the testimony.

May I ask one question leading to a possible basis to strike?

You have been with the Milwaukee in Seattle for how long?

The Witness: 42 years.

Mr. Rockwood: And in 1933 were you active as a representative of the Milwaukee at the meetings of the Northern Pacific Coast Freight Bureau?

The Witness: Not in '33, no, sir.

Mr. Rockwood: I move the witness' testimony as to what the S. P. & S. did in '33 be stricken.

Mr. Maguire: The witness has taken Mr. Ehlen's description of what the S. P. & S. did in '33 and relating it to the ordinary practice of the committee.

Mr. Rockwood: He drew conclusions with respect to the period you mentioned. I move it be stricken.

Mr. Maguire: I maintain that motion is not well taken.

Exam. Dishman: You did not attend those meetings at that time?

The Witness: No, sir.

Exam. Dishman: On what did you base your answer?

The Witness: The records are open as to the continuity of contribution to the Bureau; the practice of attendance or non-attendance is common knowledge. That goes on and has gone on for many years.

[fol. 3858] Exam. Dishman: You read the records?

The Witness: Yes, sir, and the transcript of the testimony.

Mr. Rockwood: The records of the Bureau or the record in this case you have read?

The Witness: Both, sir.

Mr. Rockwood: With respect to what was happening in '33?

The Witness: Yes, sir.

By Mr. Maguire:

Q. Did you see any correspondence with respect to participation by the S. P. & S. in 1933?

A. I don't believe I saw any letters to the Bureau. I am sure there was no—

Mr. Maguire: Just a minute before you answer that, Mr. Engel. When you said you inspected no records, let's get this traffic. I think there was an unintentional trap in that question. You have looked at Exhibit 78, put in by Mr. Ellen, haven't you?

The Witness: Yes, sir.

Mr. Rockwood: What is Exhibit 78? Please don't show it to him.

Mr. Maguire: Of course I will show it to him. Exhibit No. 78—

Mr. Rockwood: Will you please state—

Exam. Dishman: Gentlemen—

Mr. Maguire: I insist upon this.

Mr. Rockwood: He asked—

[fol. 3859] Mr. Maguire: You be quiet a minute. The witness can not be expected to memorize the numbers of all exhibits, and I am certainly not prompting him or doing anything else, but I am entitled to tell him what the general nature of Exhibit 78 is. He wouldn't know Exhibit No. 78, and I wouldn't either unless I just looked it up.

Exam. Dishman: What are your objections, Mr. Rockwood?

Mr. Rockwood: Exhibit 78; I was mistaken. I thought you were referring to another one. Go ahead and talk about Exhibit 78.

Mr. Maguire: All right. I am also going to look for another one, too.

Mr. Rockwood: Sure.

Mr. Examiner, my objection is this: This witness has stated a lot of conclusions which he has drawn from the

conduct of the S. P. & S. It now develops that he was drawing conclusions with respect to a state of affairs in a period when he was not attending meetings of the Bureau. He has said that he has examined records of the Bureau and has drawn certain conclusions. I asked him if in the records of the Bureau he saw any correspondence. He said no. Now Mr. Maguire is calling his attention to the fact that he has overlooked something which is in this record, and which will help him, probably bolster up the answers he has given. I object to that conduct on the part of counsel; bring material to [fol. 3860] the attention of the witness, to assist him in correcting what may have been an erroneous answer.

Exam. Dishman: Is there a question now pending? Did he answer your question, Mr. Rockwood?

Mr. Rockwood: No. I am making the objection in anticipation of Mr. Maguire's marching across the room with another exhibit.

Mr. Maguire: I know that Mr. Engel has thoroughly studied all of these exhibits.

Mr. Rockwood: Sure.

Mr. Maguire: Mr. Examiner, the whole answer to counsel's objection here is this: that Mr. Engel has taken the testimony of Mr. Ehlen as to what happened in 1933, as to absences from meetings of the Bureau. He has applied that testimony to what goes on at the present time, and what has gone on during his entire experience of attendance at the meetings of the Bureau. Now, the mere fact that he wasn't there in 1933, if he takes Mr. Ehlen's statement, certainly would not deprive him of comparing the actions as testified to by Mr. Ehlen to what goes on in that Bureau according to his own personal knowledge.

Mr. Rockwood: May I make a remark in answer to that? And in so doing he is ignoring the explanation given by Mr. Ehlen of why they were absent from the meetings for a period there, which negatives any notion that it is in any way parallel to occasional absences from mem- [fol. 3861] bership of committee meetings.

Exam. Dishman: Mr. Ehlen's statement is in the record.

Mr. Rockwood: Sure. I object to this witness' arguing from a statement in the record.

Exam. Dishman: This case no doubt will be briefed. The evidence will be allowed to stand.

Of course your remarks, Mr. Rockwood, will be considered when the Commission determines the weight which may be accorded this testimony.

Proceed.

Let's take a short recess.

(Short recess taken.)

[fol. 3862] Exam. Dishman: The hearing will come to order, gentlemen.

By Mr. Maguire:

Q. Mention has been made, Mr. Engel, of routes via the Milwaukee Railroad through Canton, S. D. Have you made any investigation to show to what extent this so-called Canton route is used by the shippers of lumber over the Milwaukee Railroad?

A. Yes, sir; I have.

Q. And will you state what your investigation has developed?

A. We have found that some shippers make use of Canton, S. D., as a diversion point on their eastbound transit cars of lumber. This is done in the same manner as has been done for years in the consignment of cars to Aberdeen, S. D., Minnesota Transfer, or other points in that section of the country for diversion purposes. Use of Canton, S. D., is, however, relatively small and the actual movement through that gateway is still smaller since most of the cars are diverted before reaching Aberdeen, S. D.

Examination of our records discloses that there were a total of 14,250 cars of lumber, shingles, and other eastbound forest products passed Avery, Idaho, during the six months' period, September 1, 1954, to February 28, 1955. Of this number, 265 cars were consigned to or via Canton, S. D., for diversion purposes, and of that number only 132, or less than one percent of the total number of eastbound cars, were actually moved through Canton, S. D.

[fol. 3863] Twelve of these 132 were diverted from Can-

ton, S. D., via Minnesota Transfer or Duluth, thence connecting lines, and I mention this fact to dispel the impression that has been conveyed in this record that use of Canton, S. D., as a diversion point, completely bypasses the Minnesota Transfer gateway, and deprives the M. & St. L. and other lines operating south from that gateway from participating in the movement of cars so routed.

The remaining 120 cars continued on to destinations east and south of Canton, in the regular train service, and cannot be said to have incurred any material delay over the routes through Yankton, S. D., to Sioux City, or through Ortonville to Minnesota Transfer.

Q. Witness Tein, in connection with his Exhibit 116, at page 3643 of the transcript, engaged in a discussion of the so-called cross-over routes. Did you hear Mr. Tein's testimony, and have you since read the transcript as to that particular testimony?

A. Yes.

Q. And do you agree with Mr. Tein's conclusions as expressed in his testimony as to the cross-over routes, or if you disagree will you state in what respects?

A. Much of Mr. Tein's testimony dealt with the application of the rates, themselves, and I haven't—I am taking [fol. 3864] no exception to the statement of the rates, as such. This particular phase of testimony has run the gamut of pointing out the similarity or dissimilarity of corresponding rate applications from origins on the Milwaukee and Western Washington to destinations on all lines in Montana and east thereof, with those in effect from S. P. & S. origins in Oregon to Milwaukee destinations, the application of diversion and reconsignment privileges, partial unloading in transit privileges, application of rates from and to common points, etc., but the fact remains that a shipper, on either the Milwaukee, Great Northern, or Northern Pacific, in Western Washington, can start a car out on the origin line, consign it in the usual manner to Minnesota Transfer, Minn., or other eastern reconsigning point, and divert to consignee on the origin line, or on either of the other two lines west of Minnesota Transfer, Minn., or to any point east of the original billed destination, at a single factor through

rate. Such diversion uses up the one change in destination allowed under the National Diversion Rules, and shippers obtain the full benefit of the through rate on a shipment. A shipper on the S. P. & S. in Oregon, however, must choose one of three lines over which a shipment will move east of Spokane, Wash., and once on either the Great Northern or Northern Pacific, he has no opportunity to divert to destination on the other, nor to destination on the Milwaukee. He does, however, have through rates and routing available beyond the lines of the G.N. or N.P. [fol. 3865] by eastern gateways, whereas if he should have routed via the Milwaukee east of Spokane he would have outlet at local destinations on that line only, plus a few common points, and must dispose of a shipment at such points on the Milwaukee or be subjected to combination rates and forced to sell at a point off the Milwaukee road.

The mill in Oregon on the S. P. & S. is therefore at considerable rate disadvantage, as compared with the Milwaukee in Western Washington on either the G. N., N. P., or Milwaukee.

Q. Now, I would like to direct your attention to Mr. Ehlen's Exhibit No. 78, which purports to be copies of minutes of meetings and correspondence in connection with the organization and reorganization of the North Pacific Coast Freight Bureau.

Do you recall that exhibit generally?

A. Yes, sir; I do.

Q. And after the meeting in St. Paul, at which this exhibit was offered, did you take up with the chairman of the North Pacific Coast Freight Bureau the question of supplementing the matter shown in Exhibit No. 78 with other documents, consisting of minutes of meetings, correspondence, etc., pertaining to the reorganization of the North Pacific Coast Freight Bureau, and particularly the adoption of the rules, the articles of organization and procedure under Section 5(a) of the Interstate Commerce Act?

A. Yes, sir; I did.

[fol. 3866] Q. And did Mr. Watson, the chairman of the North Pacific Coast Freight Bureau, forward to your office any such copies?

A. Yes, sir. In response to my letter of April 19th, he furnished me copies, as taken from his records, under date of May 18th.

Q. That is, his letter was May 18th?

A. Yes, sir.

Q. And do you have that letter or a copy of it?

A. Yes, sir; I have his letter of May 18th before me now.

Q. Will you show this to counsel.

I would like to read that letter into the record.

Mr. Rockwood: I have no objection to your reading this into the record.

Mr. Torinus: Just one letter?

Mr. Maguire: Yes.

By Mr. Maguire:

Q. Would you read that letter into the record, Mr. Engel, the letter of May 18th from Mr. Watson?

A. It is addressed to Mr. Paul Wilson, Western Traffic Manager, Milwaukee Road, Seattle:

"In accordance with your request of April 19th, I am attaching thirty (30) copies of the letters in docket records requested.

"Additionally, I have carefully examined our files and find no other pertinent communications or meeting records relating to the adoption of our article 11 of the Western [fol. 3867] Traffic Association Articles of Organization and Procedure.

"Yours very truly, W. R. Watson, Chairman."

Q. I am handing you a bundle of documents. Will you look at these and state whether these are the enclosures of Mr. Watson's letter?

A. Yes, sir; they are. They are supplies that he furnished me.

Mr. Maguire: I would ask that these copies be marked for identification Exhibit No. 132.

Exam. Dishman: Yes.

(Complainant's Exhibit No. 132, Witness Engel, was marked for identification.)

Mr. Maguire: Mr. Examiner, we have had marked for identification as Exhibit No. 132 a set of copies of the letter and docket records which are mentioned in Mr. Watson's letter of May 18th, concerning which I have already questioned Mr. Engel. I will not therefore question him any further as to identification.

By Mr. Maguire:

Q. Mr. Engel, I wish to direct your attention to Mr. Ehlen's testimony—I am only going to refer to it as a subject and not try to summarize it, at the St. Paul hearing, regarding the pending proceeding before the I.C.C. for the amendment of articles of organization and procedure of the Western Traffic Association, with particular reference to section 8 of Article 11 of the agreement, which [fol. 3868] deals with the voting power of the S. P. & S. at the committee meetings.

A. Yes, sir.

Q. I am going to hand you—

Mr. Maguire: May I ask this be marked for identification as Exhibit 133?

Exam. Dishman: It will be so marked.

(Complainant's Exhibit No. 133, Witness Engel, was marked for identification.)

By Mr. Maguire:

Q. —what has been marked for identification as Exhibit No. 133.

Have you seen the original copy of this letter, which was—was this distributed to your office, and as a member of the North Pacific Coast Freight Bureau?

A. Yes, sir; it was.

Q. Is this the letter to which I referred in the hearing at St. Paul in my questioning of Mr. Ehlen as to certain statements made in the joint letter submitted by Messrs. Nicholson and Cleveland to the Great Northern and Northern Pacific, respectively?

A. Yes, sir.

Mr. Maguire: I think if we can go off the record a minute I will distribute two others.

Exam. Dishman: All right, off the record.

(Discussion off the record.)

Mr. Maguire: Could I ask this next one be marked 134? [fol. 3869] Exam. Dishman: Yes.

(Complainant's Exhibit No. 134, Witness Engel, was marked for identification.)

Mr. Maguire: May the next be marked 135?
Exam. Dishman: It will be so marked.

(Complainant's Exhibit No. 135, Witness Engel, was marked for identification.)

Mr. Maguire: Mr. Examiner, may I ask that a document entitled "Petition to Amend Articles of Organization and Procedure, Western Traffic Association," be marked for identification as No. 134?

And another document entitled "Protest of Chicago, Milwaukee, St. Paul & Pacific Railroad Company against granting a petition to amend Articles for amendment in procedure Western Traffic Association," be marked for identification as Exhibit No. 135.

By Mr. Maguire:

Q. Referring to Exhibit 134, Mr. Engel, as a member of the North Pacific Coast Freight Bureau, did your office receive a copy of this document which has the title that I have already read?

A. Yes, sir; it did.

Q. And referring to Exhibit No. 135, did your office also receive and have in its file the protest which has been described in full here, and I think I said I marked as 135?

A. Yes, sir; we did.

Mr. Maguire: If there is any question in counsel's mind, [fol. 3870] we can call 135 a counsel's exhibit, because I will say it has been filed all right.

Mr. Rockwood: I have no doubt it has been filed. I know it has been filed. I do wish to remark that this Exhibit 135 will not be received in evidence as proof of the facts therein stated. I would take serious exception to same.

Exam. Dishman: You can bring that up when it is offered.

Mr. Maguire: Yes. I would say no more than we would like to have the recitals of fact in 133 and 134 be deemed proof of the facts therein stated.

Mr. Rockwood: They will be offered, when offered, as proof of the fact that these documents did exist and were handled in a certain way?

OFFERS IN EVIDENCE

Mr. Maguire: Yes.

At this time, if the Examiner please, I wish to offer the witness Engel's Exhibits 132, 133, 134, and 135, and I may say that as to 133 to 135, inclusive, we are offering them merely so that the Bureau of Formal Cases of the Commission will be informed as to the proceeding which was described by Mr. Ehlen in his testimony at the St. Paul hearing, because you will recall that he testified that proceedings had been started before the Commission for an amendment of the articles of incorporation and procedure.

I am not, however, going to burden the record here with copies of the statement of facts and argument filed by the [fol. 3871] proponents of the measure, nor Mr. Barron's letter to the Commission or statement to the Commission where he said the proponents would be the ones who would sustain the burden of proof, and, unfortunately, my answer to the statement of facts has not yet been prepared, anyway, so I am not offering that.

Mr. Rockwood: Is it in order, Mr. Maguire, that you and I stipulate that this petition, which is Exhibit 134, together with your protest, are the subject of a proceeding which has been assigned by the Commision for handling under modified procedure?

Mr. Maguire: That is right.

Mr. Rockwood: That the Commission directed that the proponent's statement be filed on June 2nd, and it was filed on time; that you are now, or your next move is to file an answer to that statement, and it will be done in due course, I take it?

Mr. Maguire: That is right.

Mr. Rockwood: The record is not yet complete in that proceeding, but it is pending.

Mr. Maguire: As a matter of fact, I will not only stipulate that, but I will go a step further: I will stipulate with you, if you wish to stipulate, that none of this proceeding in connection with the amendment of the articles of organization and procedure has any probative effect or any of the steps leading up to it has any probative effect: [fol. 3872] so far as any issue in this case is concerned. I would be willing to stipulate that with you.

Mr. Rockwood: I don't doubt you would. I don't think there is any necessity to enter into that stipulation.

Exam. Dishman: Are there objections to these exhibits?

Mr. Rockwood: With the limit Mr. Maguire stated, I don't object to the receipt of the exhibits.

Mr. Maguire: My stipulation with counsel stands, and I am glad it is of record, and counsel declines, and I note that counsel declines to enter into any stipulation, that this proceeding which has been stated at the instance of the Northern Pacific and Great Northern, has declined to stipulate that it has not probative effect in this case.

Mr. Rockwood: Whether it has or not, I have not stipulated one way or another.

Exam. Dishman: The record shows.

Exhibits 132 to 135, inclusive, are received in evidence.

(Complainant's Exhibits Nos. 132 to 135, inclusive, Witness Engel, were received in evidence.)

Mr. Rockwood: I still stipulate to that effect if you will stipulate that the testimony of Mr. Engel which appears at page 138 of the record as to the contents of the Western traffic agreement has no probative value in this case. Will you stipulate to that, Mr. Maguire?

Mr. Maguire: I am not going to stipulate to that, of [fol. 3873] course not. Because it has. I will go one step further with you and would say that you are trying to cooper up this fault by filing this phoney petition.

Mr. Rockwood: I don't think it necessary to answer that.

Exam. Dishman: Let us continue with cross-examination.

Mr. Maguire: This is colloquy conducted in the utmost good nature, Mr. Examiner, I hope.

You may cross-examine.

Mr. Rockwood: May we reserve also cross-examination of Mr. Engel?

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: Mr. Engel is excused temporarily.

(Witness excused.)

PAUL WILSON was sworn and testified as follows:

Direct examination.

By Mr. Maguire:

Q. Your name is Paul Wilson?

A. Yes, sir.

Q. What is your position with the Milwaukee Railroad?

A. Western traffic manager.

Q. Where are your headquarters?

A. Seattle.

Q. Have you heretofore testified in this case?

A. No, sir; I have not.

[fol. 3874] Q. And how long have you been employed in the traffic department of the Milwaukee Railroad?

A. Twenty years.

Q. And how long have you been in the service of the Milwaukee Road?

A. Forty-four.

Q. And what has been the general nature of your service? Just state your early years.

A. I was clerk for a few years, chief clerk, assistant agent, and agent at Seattle last—agent at Seattle—I started as division freight and passenger agent in the traffic department in 1925; assistant general freight agent in 1935, general freight agent in 1948, western traffic manager in 1950.

Q. When you say you have had 20 years in the traffic department, it doesn't gibe with my records.

A. It is 30 years.

Q. And I gather from what you said, where you were stationed in your time with the traffic department, that

your experience has been in lines west of Mobridge and particularly in the Pacific Northwest?

A. I was three and a half at Green Bay, Wis., 1926, 1927, 1928, part of 1929. The balance of that time I was at Tacoma and Seattle.

Q. During your service out there, have you either, in your earlier years, directly engaged in solicitation of freight [fol. 3875] traffic and in your later years as head of the department supervised the solicitation of freight traffic?

A. Yes, sir.

Q. I wish to direct your attention to Exhibit No. 112, which is Mr. Tein's exhibit.

From your experience in solicitation of traffic, and also in supervising solicitation, what has been your experience with regard to the so-called cross-lake route in connection with shipments originating on the Southern Pacific and Union Pacific in Oregon and Washington as a route which is susceptible of producing traffic on a solicitation basis?

A. It is quite difficult to secure traffic via cross-lake routes. They are not used to the extent that the all-rail routes are used by any means. We have three well-used cross-lake routes, with the C. & O. Railroad, the Grand Trunk, and the Ann Arbor. There are, I believe, 19 railroads soliciting freight by the Chicago gateway, and eight via St. Louis, and the solicitation efforts of those people greatly outweighs the solicitation efforts of the cross-lake routes.

Q. When you say about 19, do you mean 19 railroads altogether, or 19—what part of the country do these 19 operate in?

A. To the point where rates apply via the cross-lake rates, apply in Group A territory.

Q. Your cross-lake rates apply to Groups A and B and C?

A. Yes.

[fol. 3876] Q. They are Official territory lines, then?

A. Yes, sir.

Q. Go ahead. How about the lines operating through the St. Louis gateway?

A. There are eight lines operating through St. Louis, who solicit traffic to that territory as well. All of those railroads involved have representatives in the Northwest who are actively soliciting this traffic.

Q. There is traffic through the land gateways rather than across lake routes?

A. That is correct.

Q. Based upon your long experience, you have heard the testimony, have you not, of representatives of the Minnesota Transfer lines, so-called, that is, the Chicago-North Western system, M. & St. L., C. B. & Q., and the Rock Island Lines, in support of their claim that the gravamen of our complaint in this case would endanger their business from the Transfer?

Based upon your experience, what is your opinion as to what effect the granting of the Milwaukee's complaint in this case would have upon the business now enjoyed by these four lines, and other similarly situated lines?

A. My opinion is that the granting of this petition would not have any effect at all on the traffic that was available to the solicitors of the Minnesota Transfer lines who are party to this proceeding. We now must solicit the shipper, [fol. 3877] the broker, and the consignee. We are a Minnesota Transfer line, and we compete with other Minnesota Transfer lines for that business, and, actually, I don't think their position is going to be any different after this complaint is settled, and in our favor, than it is now.

Mr. Rockwood: When, as, and if.

By Mr. Maguire:

Q. Is it—according to your experience, who has the greater solicitation advantage, the representative of a line which originates the traffic, or the representative of an intermediate line?

A. Well, I would say that the originating line has a tremendous advantage over an intermediate line as far as the solicitation of traffic is concerned.

Q. When, as, and if the complaint of Milwaukee is granted in this case, will the Milwaukee be an originating line or still an intermediate line?

A. We will still be an intermediate line.

Q. And do you have any apprehensions as to what effect the granting, when, as, and if, of this long-haul from Spokane through the Transfer with the same application beyond as now enjoyed by the Great Northern and the N.P., as to what effect the granting of that application would have upon your business from the Minnesota Transfer, east or south?

A. Well, as I said before, we are a Minnesota Transfer line, and we will still be a Minnesota Transfer line after [fol. 3878] this case is settled. Shippers might satisfy us, or try to satisfy us, with a Spokane-Minnesota Transfer haul and give that business to one of the other Minnesota Transfer lines. That is, that is not uncommon for a shipper to divide up the business that he has between the lines who solicit freight from him.

Q. As to traffic which we now originate on our own line, particularly lumber traffic, are we able to hold that traffic to our lines east of the Transfer?

A. No, I am sorry to say we are not. We give up approximately 20 percent of the traffic that goes to points beyond Minnesota Transfer to other Transfer lines, and, of course, we receive from the Minnesota Transfer lines a substantial amount of traffic which they give to us.

Q. That is, westbound or eastbound?

A. Eastbound.

Q. I see.

A. We solicit Minnesota Transfer business, and I think in 1954 we secured about almost 5,000 cars of freight from Minnesota Transfer lines eastbound, which we were able to secure, in competition with the other Minnesota Transfer lines, and, incidentally, Mr. Webb's Exhibit 47, and Mr. Lear's Exhibit 48, which were mentioned by Mr. Wise and Mr. Christenson and Mr. Swanson and Mr. Larsen in their Exhibits 57, 65, 72, and 74, respectively, they received about 5,000 cars from the Northern Pacific and Great Northern to competitive points with us, and 2403 cars from the [fol. 3879] Northern Pacific and Great Northern to non-competitive points.

Q. Now, as to your westbound business—

A. By the way, that is Weis, W-e-i-s.

Q. As to your westbound business through Minnesota Transfer, do you know whether or not the four lines in question who are—we have been calling them, I think, sometimes, the active Western Trunk Line defendants in this case, the M. & St. L., Burlington, North Western and Rock Island Lines—do we receive westbound business from them at Minnesota Transfer destined to points on our line?

A. Yes, we do.

Q. Is some of that traffic originated at points which are competitive with our own line?

A. Yes, sir.

Q. Is there a substantial amount of that traffic, without naming the actual number of carloads or anything of that kind?

A. Yes, I am not familiar right now with the exact number, but it is very valuable traffic to us, even if it is loss to us beyond, or east of Minnesota Transfer.

Q. You don't turn it down on that account?

A. No.

Q. Have you got a copy of Exhibit 112 before you?

A. Yes, I have one here.

[fol. 3880] Q. I would like to discuss that a little bit, as to some of the factual statements. On page 2 of Exhibit 112, there is a list of mills under the heading "Reached over the route of the CM, St. P.&P.", starting with the Alder Lake Mill, Inc., at Elbe, Washington, and ending at the bottom of the page with Great Western Lumber Company, at Everson, Washington.

Have you any comment as to the correctness of those figures which were taken, as I recall, from Cross-Pacific Coast Lumber Digest, the 11th Annual Edition, as the source, as to the present-day correctness of them?

A. I have some suggestions as to changes, not as of the present-day exactly, but as of the date this exhibit was submitted. The Eatonville Lumber Company at Eatonville went out of business actually in December of 1953. They sold their mill and the yard stock at that time. It was publicly announced. They continued shipping until early April.

Q. Of what year?

A. 1954. They went out of business and have been out since that time.

Q. Has any other concern taken over the operation of that mill?

A. No, sir. The mill was sold, the yard stock shipped. The general understanding is the machinery, or nearly all of it, will be removed. There is very little chance at this time that that will ever open again as a sawmill—very little chance.

Q. Now, you say you have some statement as to other ones.

[fol. 3881] A. The Gossett Timber Products of Portland lease has been out of business since 1953, and have made no shipments since that time. I found that the Electric Mill Company, listed at Morton, Washington, is actually located at Mossy Rock, which is a station on the CC&C Railroad, Morton being the post office address.

At the time this exhibit was made, the CC&C was an operating railroad, and that mill should have been included in the category at the bottom of page 3, "Traffic available to Union Pacific, Great Northern, Northern Pacific, and St. P&P", through their junction with the CC&C, at Chehalis, Washington.

Q. What relationship is there betwen the CC&C Railway, or Railroad, and the four railroads whom you have just mentioned?

A. They owned it at that time. It has since been abandoned, and gone out of operation, on the authority of the Commission. The mill at Mossy Rock is a good deal closer to Napavine than it is to Morton, and it is our thought and our contention that the shipments will be made through Napavine, which is also a joint station on the four western trunk lines.

Mr. Rockwood: Four western trunk lines?

The Witness: Yes, sir.

Mr. Rockwood: Not the western trunk lines like these here?

The Witness: No, sir. The Studhalton Brothers, it says here, but it is actually Studhalter; they are located at Alpha, Washington; post office address, Morton. That

was also a station, or rather they loaded Onalaska. They [fol. 3882] located at Onalaska about a mile from Alpha, which was also a station on the CC&C road, and the category—that mill should also be added to this list of mills on page three, at the bottom of the page.

The Great Western Lumber Company, at Everson is not on track. It is located about a mile and a half from Everson, and one mile from Ooksack.

They have customarily hauled their lumber to Ooksack, but on account of their geographical location, they should be taken out of this category on page one, and added to the list of mills at the top of page five, reached over the route of the Milwaukee and Northern Pacific.

At the bottom of page 2, the C.B. Lumber and Shingle Company, at Everett, is shown, daily capacity, 50,000; Pacific Timber Company at Everett is shown as a capacity of 50,000. That is the same mill, Pacific Timber Company is the selling agent for the C.B. Lumber and Shingle Company. That doesn't change the mill from one category to another. It merely eliminates it from the list of mills served by the Great Northern, Northern Pacific, CM St. P&P.

Q. Is there a duplication of footage in there?

A. Yes. The footage is duplicated.

Q. Now, then, have you made any investigation as to which of these mills, particularly those shown on page 1, which you are most familiar with, are to any extent, any substantial extent, export mills or mills which ship by water rather than by rail?

[fol. 3883] A. Yes. To a certain extent, all mills, or nearly all mills on the water are making water shipments. The Eclipse Lumber Company at Everett, the Walton Lumber Company at Everett, Weyerhauser Timber Company at Everett, shown on page 3, in the list of mills served by GN&NP and Milwaukee.

The Seattle Cedar Lumber Manufacturing Company, St. Paul and Tacoma Lumber Company, Columbia Lumber Company at Long View, Washington, Dickman Lumber Company at Tacoma, Exeter Lumber Company, Long View, Hammerschmith Lumber Company at Tacoma, Long View

Lumber Company at Long View, Nettleton Lumber Company at Seattle—

Q. It is named here as Nettleton Timber Company.

A. Nettleton Timber Company at Seattle, Seaboard Lumber Company at Seattle, Stimson Mill Company at Seattle—

Q. S-t-i-m-s-o-n.

A. Tacoma Harbor Lumber and Timber Company, at Tacoma, all do an off-shore business, and to the extent that their off-shore business, to the piers, that their off-shore business is of their total, the footage should be removed. Those mills are shown on pages 3 and 4 under the heading of Union Pacific, Great Northern, Northern Pacific, CM St. P&P.

Q. Did you mention the Weyerhauser Timber Company plant at Long View, Washington?

A. Yes.

Q. Do they do any off-shore business? That is shown on page 4.

[fol. 3884] A. Yes. They do a substantial off-shore business.

Q. What about the Simpson Logging Company at Shelton, shown on page four; do they do any substantial off-shore business?

A. Yes, they do.

Q. And are you in any position at this time to state the percentages of the output or anything other than it is a substantial portion of their output that goes by water, rather than by rail?

A. I can't give any figures on the percentage.

Q. Can you state whether or not it is a substantial portion that goes by water rather than rail?

A. It is substantial at times, yes, sir. It takes a good deal of business away from the rail lines. They ship to off-shore points, the Gulf, Atlantic Coast, South America, and to transocean points. The list runs on: Olympic Hardwood Lumber Company at Raymond, Twin Harbors Lumber Company at Raymond.

Q. What page are you on, now?

A. Five.

Mr. Torinus: Give us those names again, please.

The Witness: Olympic Hardwood Lumber Company, at Raymond; Twin Harbor Lumber Company, at Raymond; Weyerhauser Timber Company—no, he is not in that category yet.

They are shown at the top of page five as mills reached over the lines of the Milwaukee and Northern Pacific.

At Aberdeen, Washington, the Aberdeen Lumber Com-
[fol. 3885] pany, American Mill Company, Anderson-Middleton Lumber Company; Bay City Lumber Company, E. K. Bishop Lumber Company; Blagen Mill Company; Picco Logging Company and Wagar Lumber Company. They are all substantial cargo shippers and cut a high percentage of green hemlock which they say they must market by water.

Q. Have you finished that phase?

A. No, I don't think so.

The Aberdeen Lumber Company—and the following are located on page five, as mills reached over the route of the Northern Pacific, Union Pacific and Milwaukee:

Weyerhauser Timber Company, at Raymond is also a water mill. That is on page 5, in the list of mills that are shown as reached by the rails of the Northern Pacific and Milwaukee.

Q. Have you finished your discussion of the so-called Tidewater Mills and/or water shipping mills?

A. Yes, sir, I think so.

Q. Have you made any check, either complete or partial, as to any possible duplication of footage between rough lumber mills; that is, mills who turn out nothing but rough lumber, and mills who finish, or perform finishing work, I should say, upon rough lumber shipped to them from the so-called rough lumber mill?

Have you made any check on that?

A. Yes. We have a list of mills who are transit operators in Oregon, and there are some mills that I know are transit operators that are not listed.

[fol. 3886] Q. When you say transit operator, what do you mean?

A. I mean a mill that buys rough or other lumber for manufacturing purposes, re-manufacturing purposes, stor-

age in transit, or sorting in transit, and re-ships the product against the inbound transit credit.

Q. Are these mills, these so-called transit operators—do they produce any lumber of their own in rough shape, or do they saw from logs into lumber themselves, or do they take other people's rough sawings and convert them in the manner you described?

A. Generally they operate on lumber that they buy from other mills. There are some transit operators who do both, saw their own logs and re-manufacture lumber in transit.

Q. When you say re-manufacture lumber in transit, do you mean their lumber that they have bought elsewhere?

A. That is right, sir.

Q. All right.

Can you expand on that or explain further on that? You say you have a list of them. Will you explain what effect that has on these totals?

A. Well, I started at this with the idea that a transit operator doesn't have lumber that is available to all of the mills, or all of the railroads serving his mill merely because they have rates. The lumber is only available to the extent that each railroad brings in the raw material. I think that those mills, the total footage of the transit operating [fol. 3887] mills should be removed from totals of the production that is available to all of the lines, because it is impossible to determine how much of each mill's product is available to each line, without knowing their complete transit record.

Q. Have you made any computation as to the amount of duplication in footage, daily footage capacity of mills which are transit operators, compared with those, as you defined that term, with those who manufacture rough lumber only?

A. No. I have not made any computation. I have some individual items and there are quite a few of them, but I haven't attempted to make a computation of them.

Q. Could you tell us the mills in these different categories that you have found out on your checks so far completed?

A. I know from personal experience that the Burke Millwork Company in Seattle—these mills are on page 3—Dun-

can Wood Gutter Company, the Tyee Lumber and Manufacturing Company, of Seatle; the Washington Manufacturing Company of Tacoma, are transit operators. The footage involved is, in order, 50,000, 25,000, 50,000 and 50,000, a total of 175,000 feet.

In Oregon—

[fol. 3888] Q. Before you go to Oregon, do you know whether these four companies that you have named do any logging of their own or saw from logs into lumber?

A. No, sir. They do not.

Q. They buy rough lumber from other sources?

A. They buy lumber, not always rough.

Q. All right, go on to Oregon now.

A. The following mills are transit operators. There are quite a number of them:

Kingsley Lumber Company at Portland—

Mr. Torinus: Will you give us the page?

The Witness: Page 9.

Mr. Torinus: Page 9 of Exhibit 112?

The Witness: Yes, sir.

By Mr. Maguire:

Q. Just a minute before you go further with that, Mr. Wilson, and maybe we can shorten this up.

Are you now referring to page 9 of Exhibit 112, and that is the second box section on that page?

A. Yes, sir.

Q. I think it will be sufficient identification if you just name the lumber company; without naming the location, because they all show on page 9 under the heading, "Reached over Route of GN-NP-SU-SP&S-UP".

A. Jones Lumber Corporation—Kingsley Lumber Company; Jones Lumber Corporation; Dwyer Lumber Com-
[fol. 3889] pany; M. & M. Wood Working Company—

Q. Now, before you go beyond them, do any of these companies to your knowledge manufacture lumber from logs or do they buy rough or finished lumber from other sources?

A. I am not familiar with that. The M. & M. Wood Working Company at Portland do not saw logs.

Mr. Rockwood: They don't saw logs at Portland or don't saw logs at all?

The Witness: They don't saw logs at Portland.

Mr. Rockwood: You don't know where they get their lumber?

The Witness: No, sir.

Mr. Rockwood: From their other operations, maybe?

The Witness: I think so. I have the name of their other place.

By Mr. Maguire:

Q. If they get them from other places—and I think they are on the Santiam Branch and very likely they have some operations down there—would the tonnage which originates at their mill and is shipped to Portland and there reworked, would that be a duplication of footage so far as transcontinental business is concerned?

A. If they are listed in here as a mill on the Santiam Branch—

Exam. Dishman: Will you spell that, please?

The Witness: Santiam, S-a-n-t-i-a-m.

By Mr. Maguire:

Q. I find I am wrong about Santiam Branch.

A. I don't see them. A casual inspection doesn't show [fol. 3890] that they are listed. In that case it wouldn't be a duplication but it would be a duplication if they bought lumber from some other mill that is listed in this exhibit.

Q. All right, go ahead, Mr. Wilson.

A. Page 10: Linneo Lumber Products Company; Pirtle—that should be P-i-r-t-l-e—and Capitol Lumber Company at Salem—

Q. Where is that, what page?

A. Page 10, and Olympia Harbor Lumber Company at Eugene; J. P. O'Neil Lumber Company at Eugene; on page 11: Oregon Pulp & Paper Company at Salem; Edwards Bros. Construction Company at Albany—

Mr. Rockwood: We had a witness who described an operation at Albany. We had a witness on the stand to

describe their operation, and he talked about operation of a saw mill. Have you checked that to make sure?

The Witness: I didn't check the testimony, no, sir.

Mr. Maguire: He is naming the transit operators. I think that is what he is doing.

Mr. Rockwood: I know, the men who don't manufacture their own lumber.

Mr. Maguire: He didn't say they didn't manufacture their own lumber.

Mr. Rockwood: Saw their own lumber?

By Mr. Maguire:

Q. Some of them do and some don't, is that right?

[fol. 3891] A. That is right.

Mr. Rockwood: Evans Lumber Company, you are not saying they don't saw lumber?

The Witness: No, sir.

Mr. Torinus: What is the definition of transit operator?

Mr. Maguire: That is in the record already.

Mr. Torinus: I would like to have it again.

Exam. Dishman: What is your understanding of it, Mr. Witness?

The Witness: It is a lumber operator who buys lumber, either rough or finished, manufactures it in transit, and reships the product. I said, I believe, that he may also saw logs, but—

Mr. Torinus: That may be a part of his operation or his entire operation?

The Witness: It may be a part.

Mr. Rockwood: If a man manufacturers (sic) one percent of his total output and saws 99 percent of his total output, you are classifying him as a transit operator and suggesting there is a duplication?

The Witness: Yes, sir, to the extent that he re-manufacturers (sic) it, and I have no figures, Mr. Rockwood—

Mr. Rockwood: May I come back? For instance, Dwyer, they have a sawmill at Lens, just outside of Portland?

The Witness: I think so.

[fol. 3892] Mr. Rockwood: Jones has a sawmill on McAdams Street in Portland?

The Witness: I think so.

Mr. Rockwood: M. & M. has a factory that makes plywood?

The Witness: Yes, sir.

Mr. Rockwood: They cut their own plywood right there in the City of Portland from their own peelers?

The Witness: Yes, sir.

Mr. Maguire: I think this has gone beyond clarification and is into cross-examination now.

Exam. Dishman: Is that cleared up?

Mr. Rockwood: He is classifying them as transit operators if they re-manufacture an atom of lumber, and—

Mr. Maguire: It can be understood we don't accept your definition.

Mr. Rockwood: I take it that is the witness' definition.

Mr. Maguire: No, it isn't his definition.

Exam. Dishman: His definition is on the record. Proceed.

The Witness: Page 11, yet, Gustaina Brothers Lumber Company at Eugene. I know he also saws logs. Morgan Lumber Company, Eugene; Monroe Lumber Company, Eugene; Alexander-Stewart Lumber Company at Pineville; page 12: Consolidated Pine, Inc., at Pineville; Brooks-Scanlon, Inc., at Bend.

Page 13: Diamond Lumber Company at Tillamook.

Page 15: Longbell Lumber Company at Vaughn. McCor- [fol. 3893] mick Lumber and Manufacturing Corporation at Sheridan; C. D. Johnson Lumber Company at Toledo; Ralph Johnson Lumber Company at Veneta; Kappler Lumber Company at Liberal.

Page 16: Gardiner Lumber Company at Gardiner, Oregon; Gardiner Lumber Company at Reedsport; Edward Hines Lumber Company at Westfir, Oregon; Evans Products Company at Coos Bay, Oregon; Fall Creek Lumber Company at Fall Creek, Oregon.

Page 17: Fischer Lumber Company at Marcola; Corvallis Lumber Company at Corvallis; Custom Lumber Company at Springfield; Diamond Lumber Company at Springfield; Digger Mountain Lumber Company at Corvallis.

Page 18: Commercial Lumber Sales, Inc., at Dillard; Consumers Cooperative Association at Swisshome.

By Mr. Maguire:

Q. Mr. Wilson, could I interrupt you?

You did not, as I understand it—I am going to lead the witness here—you had not completed up to the time of the hearing a complete check of who are the transit operators in this exhibit, had you?

A. No. These were the only ones we had been able to check from the sources we had.

Q. No. We didn't make—you had not made a complete check?

A. No.

Q. I don't think we need to go further with that.

Are these lumber mills—to use Mr. Rockwood's extreme illustration, it is not whether they reprocessed an atom of [fol. 3894] lumber but they are engaged, as I understand your definition, if the refinishing or otherwise processing or storing of lumber and shipping it out in carloads; as to the proportion of their output, you do not have information as yet at the present time?

A. I do not. They all have active transit accounts with the Transcontinental Freight Bureau.

Q. Active transit accounts?

A. Yes, sir.

Q. Then to the extent that these operators ship from either other locations of their own concern, or by buying from other properties, they have to do that shipping or buying or they have to do that shipping as a result of a sale or manufacture at one of their own plants, some other point than where they reprocess it or store it.

A. Yes, sir.

Q. Therefore the plants from which they purchase, if this is a complete statement of all mills and producers in Oregon, there must be a statement in there that the lumber is treated in transit or refinished or manufactured, is that correct?

A. Yes, sir.

Q. Or re-manufactured?

A. That is correct.

Mr. Maguire: I think that illustrates our point on that. We will go no further with that.

[fol. 3895] By Mr. Maguire:

Q. Mr. Wilson, do you know whether rough green lumber is shipped out of the States of Oregon, Washington and California, from mills in those states to any extent?

[fol. 3896] A. Yes, to a certain extent, structural timbers, and it is shipped out of State of Oregon into Washington.

Q. I mean, does it go east of the mountains?

A. Some. A small percentage does.

Q. Have any substantial percentages of it gone to transcontinental destinations, transcontinental groups?

A. Not since the war, as I remember. There was a substantial amount shipped during the war, but I don't recall much since that time.

Q. Have you made any check of the mills whose output is rough green lumber?

A. Yes. The people in the traffic department in Portland at my request interviewed some lumber people and gave me a list of 29 mills who have no dry kiln and no planer, ship rough lumber very largely to reproducing plants. The total—

Mr. Rockwood: I object to an estimate.

Exam. Dishman: Can you state of your own knowledge?

The Witness: Only, sir, that people I asked to investigate it wrote me a letter telling me they disclosed this information.

Mr. Maguire: I think that is an investigation made under his supervision and is admissible under the rules of evidence.

Exam. Dishman: It will be allowed to stand. Proceed.

The Witness: Total daily production on an eight-hour basis of 1,410,000 feet. Those mills are listed in the exhibit.

[fol. 3897] Mr. Rockwood: How many feet?

The Witness: 1,410,000 feet.

Mr. Rockwood: Twenty-nine mills?

The Witness: Yes.

By Mr. Maguire:

Q. Is that a complete investigation of all of the green lumber manufacturing points?

A. It is impossible to get a complete record of the mills that do nothing but manufacture rough lumber, without an individual at the mill itself, and there are so many of them that that was impossible.

Q. Do you have the names of those mills available in case counsel wishes to elicit it upon cross-examination?

A. I have a penciled memorandum.

Mr. Rockwood: May I see it, please?

The Witness: Yes, sir.

Mr. Rockwood: May I inquire for clarification, if a mill doesn't have a planer and dry kiln you have classified him as a manufacturer solely of rough green lumber; is that right?

The Witness: Yes. Also, the information that we secured showed that that was what they said they manufactured.

Mr. Rockwood: May I inquire, is it not a fact that every one of those 29 mills is located on the Southern Pacific and not a single one is located on the S.P. & S. system lines?

The Witness: I think that is correct.

By Mr. Maguire:

Q. Did you direct that your inquiry or investigation be [fol. 3898] restricted to mills located off the S. P. & S.?

A. No, sir. My instructions were for them to find every mill that they possibly could whose production was confined to rough green lumber. This was a very disappointing statement, because I think there are a lot more.

Mr. Rockwood: I move that be stricken because he doesn't know anything about it, apparently.

Mr. Maguire: I am afraid I will have to consent to that.

Exam. Dishman: It will be stricken.

Mr. Maguire: It was a good try, Mr. Wilson.

By Mr. Maguire:

Q. Now, I wish to call your attention to some testimony of Mr. Ehlen appearing on page 3357 of the transcript where he is discussing the Holden Lumber Company at Prescott, Ore.

He states that there have been, and I am quoting: "There have been no shipments from that mill since October."

This testimony was given on April 12, 1955, and "Apparently the mill has been shut down since about the first of August." Still continuing the quotes: "I checked to determine whether the mill had resumed operation just before I left, and it developed that the mill has not resumed operation."

Upon hearing, or after you had returned from hearing Mr. Ehlen's testimony about his checking to determine these matters, did you do a little checking on your own account?

A. Yes, sir.

[fol. 3899] Q. And will you tell what you found out as to the Holden Lumber Company from your check?

Mr. Rockwood: Confine this to what you observed, yourself, not what you got by correspondence, please.

The Witness: They shipped lumber in every month—

Mr. Rockwood: Wait a minute, please.

By Mr. Maguire:

Q. Tell them, first, what you did, please, Mr. Wilson.

A. As a matter of fact, I made two trips to see Holden, one last fall—I can't remember the date, and one on June 3d. I first inspected the shipping records and found that they shipped 117 cars in the last six months of 1954, shipments being made in every month, including December, and 1,780,000, I think, feet of cargo lumber. I think they were shut down. I know they were shut down for a while. They opened up in March and on March 8th they made a shipment of lumber.

[fol. 3900] Exam. Dishman: This is March of this year?

The Witness: Of 1955, and from March 8 to June 3, they shipped 33 cars of lumber, some in each month, March, April, May, June, and about 800,000 feet of cargo lumber.

Mr. Maguire: Could I go off the record a moment?
Exam. Dishman: Yes.

(Discussion off the record.)

Exam. Dishman: On the record.

By Mr. Rockwood:

Q. I didn't get his figure for the number of cars that Holden shipped in the last six months of 1954.
A. 117, as I recall.
Q. Can you give me now the number of cars which your check showed were shipped in each of those six months?
A. Yes, sir.

Mr. Rockwood: May I have that, Mr. Maguire?
The Witness: I have a penciled memorandum on it.

By Mr. Rockwood:

Q. The number of cars shipped in each of the last six months of 1954.

Mr. Maguire: Do you want it furnished for the record?
Mr. Rockwood: If he has it here, I would like it.
The Witness: July, 49; August 19; September, 19; October 19; November, 3; December 8; total of 117.
Mr. Rockwood: How many of those were from Long View?
The Witness: The shipping records I think are all at Prescott.
[fol. 3901] Mr. Rockwood: Does it include the Long View shipments?
The Witness: All the grain door shipments are made from Long View.
Mr. Rockwood: That doesn't quite answer it.
The Witness: There were no shipments from Long View outside of grain doors that appeared in his records.
Mr. Rockwood: Every one of these 117 cars were lumber from Prescott, Oregon?
The Witness: Yes, sir. I can't give you the shipments by months.

Mr. Rockwood: May I inquire, this material does not check with one of Mr. Ehlen's exhibits which Mr. Ehlen testified that he prepared from waybills. Did you examine the waybills?

The Witness: I did not examine the waybills. I examined the shipping records and—

Mr. Rockwood: Shipping orders?

The Witness: His shipping records. I have the car numbers in.

Mr. Maguire: Were you through with your clarifying questions?

Mr. Rockwood: Yes.

By Mr. Maguire:

Q. Mr. Wilson, I want to change the subject a moment here. On cars which originate on the Milwaukee Road of lumber, let us say, which are destined to someplace in Official Territory, and route on our line, then also a West- [fol. 3902] ern Trunk Line carrier—I use that phrase as a carrier that operates between the Twin Cities and some junction point; even Chicago, as far as that goes—take the Northwestern, for example, Northwestern and then some eastern line. What is the practice with respect to turning that car over to the Northwestern in this particular instance at Minnesota and transfer or hanging on to it as far down, closest to Chicago as we can get? What is our practice under those rules?

A. We don't solicit business with the Northwestern via any other junction; that is, to points east of Minnesota transfer by any other junction than Minnesota and transfer. The same thing applies to the Burlington, the Rock Island and the M&St. Paul.

Q. And the car is routed Milwaukee Railroad, Burlington, we will say, Pennsylvania, to someplace in Ohio, or Pennsylvania or New York, and there is no junction name there. Where do we give it to the Burlington?

A. It is customarily given to the Burlington at the Minnesota transfer. We get very few unrouted cars that we can give away. Last year I think we had 14 completely

unrouted cars, and 48 partially unrouted cars, none of which involved a Minnesota transfer. The partially unrouted cars, none of them involved a Minnesota transfer line.

The 14 cars, I can't tell you what lines were involved. We gave them away to the carrier that we thought would give [fol. 3903] the best service to the shipper.

Q. I am not talking about unrouted cars, where it is blank, wide-open routing. I am talking about where the carriers are named but the junctions are not named.

A. I understood your question, but we don't attempt to short-haul the Burlington or any other Minnesota transfer line, if the routing is—if the junction is not shown, we give it to the Minnesota transfer line at Minnesota transfer.

Mr. Maguire: I believe, Mr. Examiner, that completes the direct examination. I may possibly have one question, of which I am not informed.

Exam. Dishman: You mean tomorrow?

Mr. Maguire: For tomorrow morning, but I don't think I will.

Exam. Dishman: Of this witness?

Mr. Maguire: Yes.

Exam. Dishman: We will now recess until 9:30 tomorrow morning.

(Whereupon, at 4:40 p.m., Tuesday, June 21, 1955, the hearing was adjourned to Wednesday, June 22, 1955, at 9:30 a.m.)

[fol. 3906]

Transcript of Proceedings, June 22, 1955

Exam. Dishman: The hearing will come to order, gentlemen.

Mr. Maguire: Before finishing with Mr. Wilson's direct examination, I have a couple of additional questions.

PAUL WILSON testified further as follows:

Direct examination (resumed).

By Mr. Maguire:

Q. Mr. Wilson, do you wish to correct any statement you made with regard to the number of cars of lumber shipped out of the Holden Lumber Company's mill at Prescott, Ore.?

A. Yes. Last night, Mr. Maguire, or yesterday afternoon, I found I made a mistake inadvertently including in the total number of cars that were shipped the grain doors which were shown in the shipping record.

Q. That is for what period?

A. For the last half of the year 1954.

Q. Those were 117 cars altogether you mentioned yesterday?

A. Yes, and I think I had better explain—

Q. Let us first get the fact in. How many cars with grain doors were included in that 117?

A. The total number of cars was 120 instead of 117 in their shipping records for the last half of last year. There were 79 cars of lumber and 41 cars of grain doors.

Mr. Rockwood: Can you give us right here at the same [fol. 3907] time the number of cars of lumber shipped in each month in the last six months? I take it these grain doors were all shipped from Longview?

The Witness: I understand that. The figures that I have from their shipping book shows July, '54, lumber—

Mr. Maguire: Take it slowly, Mr. Wilson, so we can copy it down.

The Witness: August, eight lumber; September, ten lumber; October, fourteen lumber; November, one lumber; December, three lumber.

Would you like the grain doors separately by months?

Mr. Rockwood: I don't. That was for Longview, which did not move out over the S. P. & S.

The Witness: That is correct. The grain doors moved from Longview.

Mr. Rockwood: Either over the Great Northern, Northern Pacific, U.P.?

The Witness: That is correct.

Mr. Rockwood: Actually, they moved Milwaukee grain doors?

The Witness: Surprisingly, there were no Milwaukee grain doors that I remember.

Mr. Maguire: Can we go ahead with the examination? I think that is really cross.

Mr. Rockwood: Mr. Maguire, in anticipation of cross-examination, I would like to have at once Mr. Wilson's [fol. 3908] list of those cars. I propose that as soon as our office is open in Portland, which will be 8 o'clock Pacific time, or 12 o'clock here, we are going to get in touch with our office, and we may want to do some checking.

Mr. Maguire: Have you got those car numbers available?

The Witness: I have a partial list. I have a list of 117 cars. I have my work sheets here that I made from the shipping book that was available for me to inspect. It shows the notations that I made, as I extracted the information from the book, and I hired a girl in the office to run off the car numbers. The car numbers probably are not what you would call evidence, but I have them with me so that you can have the car numbers to check.

Mr. Rockwood: This is simply to facilitate our check. It is very difficult to do it 3,000 miles away. We are going to endeavor to do it.

Mr. Maguire: Certainly. I want to bring out something from the witness here in connection with this very matter that you are inquiring about.

By Mr. Maguire:

Q. Do you have a list of 117 cars, you say, Mr. Wilson?

A. Yes, sir.

Q. For what period—during what period did those cars move? Are those 117 of the 120 that moved in the last half of 1954?

A. Yes, sir.

[fol. 3909] Q. Or what are they?

A. Yes, sir.

Q. Where did you get the additional three cars which you mentioned this morning?

A. They are car numbers which evidently the girl that I had made a mistake or missed in making the copy of cars.

Q. Can you copy those three car numbers, then, onto that typewritten list so that Mr. Rockwood may have them?

A. I have no car numbers for the numbers of shipments. I have no car numbers for the record that I made from the Holden book.

Q. You mean there are three car numbers missing?

A. Yes, sir.

Q. From the list?

A. Yes, sir.

Q. But that there were three additional cars. Have you got any collateral data upon those three cars, of which the numbers are missing, that would help Mr. Rockwood?

A. No, sir. There is no direct connection between the memorandum that I made in extracting this information from the book and the list of car numbers. They are only available for inspection.

Q. In your work sheets, what do you show there on them as to the number of cars per month? You don't list them by numbers, as I understand it?

A. I listed them by the name of the buyer and the [fol. 3910] number of feet in the car, and I added up the number of feet and arrived at the number of cars that were shipped.

Q. Did you show the date of shipments on your work sheets?

A. No, except the month.

Mr. Maguire: Will that be of any help to you, Mr. Rockwood, to have that?

Mr. Rockwood: Very little, but I would like it.

Were you nearly through with direct?

Mr. Maguire: Yes.

By Mr. Maguire:

Q. In your number of feet of lumber shipped during these periods, do you include any of the footage that was consumed in these grain door shipments, or included in the grain door shipments?

A. Only that that was loaded in cars.

Q. That is, the lumber loaded in cars?

A. That is right.

Mr. Rockwood: Are the grain doors loaded in cars, also?

The Witness: Yes, sir; they are loaded in cars at Longview.

Mr. Rockwood: They are included in your footage?

The Witness: No.

Mr. Maguire: That is what I want to find out.

By Mr. Maguire:

Q. You do not include any footage of lumber that was manufactured into grain doors and shipped out of Longview?

A. No, sir.

[fol. 3911] Mr. Maguire: We are willing to turn over Mr. Wilson's work sheets and the typewritten list of car numbers to Mr. Rockwood for checking, if he so desires.

Exam. Dishman: You mean after cross-examination?

Mr. Maguire: Yes. I think he will want to probably check that up first before cross-examining Mr. Wilson further.

I would like to make this request as to Mr. Wilson's cross-examination: I have some other witnesses here whom I have already tendered on direct before Mr. Wilson whom I would like to, if possible, to release today, if counsel finishes with cross-examination. I would therefore like

to tender them for cross-examination before further examination of Mr. Wilson, unless there are any clarifying questions.

Mr. Rockwood: That is perfectly all right. I may have a few preliminary questions relating to these sheets that Mr. Wilson is going to turn over to me, and aside from that I am quite willing to defer his cross-examination to fit your convenience.

Mr. Maguire: All right.

Do you want to look at them now?

Mr. Rockwood: Are you through with direct examination?

Mr. Maguire: Yes.

Mr. Rockwood: All right. May I please look at them, Mr. Wilson?

The Witness: Yes, sir.

[fol. 3912] Mr. Rockwood: On your work sheets, which are made on the stationery of your railroad, you have, for example, a tabulation under the heading "Gray." Is that Gray Lumber Shipping Company?

The Witness: Yes, sir.

Mr. Rockwood: These figures, 27,735 in this column, and following six or seven, those are the footage in cars?

The Witness: Yes, sir.

Mr. Rockwood: Each one of these purports to represent a carload?

The Witness: Yes, sir.

Mr. Rockwood: And you personally did not make any check to identify this Gray shipment of 27,735 feet with any particular car number, or with any particular date of shipment?

The Witness: No, sir.

Mr. Rockwood: That is true for Gray—there is six cars, and then there is a line crossing them out. What is the significance of that line?

The Witness: That is when I counted them. I marked it out when I counted the cars.

Mr. Rockwood: The next column is H. H. Ketcham?

The Witness: Yes, sir.

Mr. Rockwood: All of these are July, '54, that I am reading.

The Witness: Yes, sir.

Mr. Rockwood: There is six cars, and then you have got, boat, 50,000.

[fol. 3913] The Witness: That is lumber that went by water. I did not count that.

Mr. Rockwood: Six carloads; is that right?

The Witness: No, sir. These six cars were loaded in cars from the Ketcham Lumber Company. This was a shipment that the Ketcham Lumber Company made by boat.

Mr. Rockwood: There are six carloads for Ketcham Lumber Company?

The Witness: Yes, sir.

Mr. Rockwood: One of those cars had 283 feet of lumber in it?

The Witness: No. I left out the zeroes when I put that down.

Mr. Rockwood: That should be 26,300?

The Witness: Yes, sir.

Mr. Rockwood: And in Timberlane you have 18 cars, and again these figures at the bottom, you have omitted two zeroes?

The Witness: Yes, sir.

Mr. Rockwood: Do I read your writing correctly, L. L. Wise?

The Witness: Wise Lumber Company.

Mr. Rockwood: That was mentioned by Mr. Holden.

The next is Eugene Willamette.

The Witness: Willamette Lumber Company.

[fol. 3914] Mr. Rockwood: The next is Diamond Lumber Company?

The Witness: Yes, sir.

Mr. Rockwood: You have one P. M. Railway?

The Witness: That is grain doors.

Mr. Rockwood: That is a grain door shipment to Pere Marquette?

The Witness: Yes, sir; Pere Marquette Railway, and I indicated that by my mark so that I could count that.

Mr. Rockwood: Each one of your own notes is for a month?

The Witness: Yes, sir.

Mr. Rockwood: Now, there is July, August, September, October.

The Witness: November and December are on the other sheet.

Mr. Rockwood: That is correct.

What shipping records did you personally inspect?

The Witness: I went to the mill office and personally inspected the shipments for 1955.

Mr. Rockwood: What kind of a record is that?

The Witness: That was the invoices, bills-of-lading and tally sheets, and everything for the year 1955.

Mr. Rockwood: Did you personally check every bill-of-lading?

The Witness: Yes, sir; every bill of lading that was sent.

Mr. Rockwood: Every one of those bills of lading you inspected showed Prescott, Ore., as origin point, except [fol. 3915] for these grain doors that you find you inadvertently included?

The Witness: Yes, sir. There were no grain doors in that bunch of bills of lading that I inspected.

Mr. Rockwood: Did you check freight bills?

The Witness: Not freight bills. I didn't look at them. I think in some cases the freight bills were attached to the papers, but I merely looked at the shipping instructions and the bill of lading.

Mr. Rockwood, as far as the 1954 records are concerned, they were not in shape, in that shape, to inspect.

Mr. Rockwood: On these yellow sheets that you have handed to me, which you say were copied off from some kind of record by a young lady in the Holden office?

The Witness: No, she was a lady in the accountant's office.

Mr. Rockwood: Whose office?

The Witness: Their auditor's, their accountants.

Mr. Maguire: Just a moment, please.

It seems to me, Mr. Examiner, that this is going beyond mere questions for clarification, which I understood this was.

Mr. Rockwood: I am trying to get as much information as I can because we will have a long telephone conversation with Portland.

Mr. Maguire: If that has to do with your telephone conversation, I have no objection to it, of course.

Mr. Rockwood: That is what it is.

[fol. 3916] How many cars on these yellow sheets is this?

The Witness: I counted 117.

Mr. Rockwood: Is there any indication on these yellow sheets which were grain doors and which were lumber?

The Witness: No, sir.

Mr. Rockwood: If we tried to check with these yellow sheets we would necessarily fail to find records in the S. P. & S. records for at least 41 grain doors?

The Witness: That is correct.

Mr. Rockwood: We have no way of telling here what they are?

The Witness: No, sir.

Mr. Rockwood: You have no information today from which you could give us that information?

The Witness: No, sir; I do not.

Mr. Rockwood: To get that information we would have to go back to the records of Holden Lumber Company?

The Witness: Yes, sir; I think that is correct, unless you could get it from the station records at Prescott, Ore., or the billing station.

Mr. Rockwood: Of course, we wouldn't get any record on grain doors shipped from Longview at Prescott or the billing station on the S. P. & S.?

The Witness: Yes, sir.

Mr. Rockwood: The only place we could get it all in one piece to eliminate, or identify the grain doors, is to [fol. 3917] send a man down to Holden Lumber Company?

The Witness: I presume that is right, sir.

Mr. Rockwood: And how long did you spend in the Holden office compiling this information?

The Witness: I was there for an hour, I believe, an hour and a half in the Prescott office, and an hour and a half or so in the Longview office.

Mr. Rockwood: Where were these shipping records, in the Prescott or Longview office?

The Witness: The '55 shipping records were in the Prescott office, 1954 were in the office of their auditor in Longview.

Mr. Rockwood: So that all of these records for the months of July through December, 1954, we would have to go to Longview to check them; is that correct?

The Witness: Yes, sir. They turned their records over to their auditors, certified public accountant, in the town of Longview.

Mr. Rockwood: I see. It was from that gentleman, or that office, that you got this information?

The Witness: Yes, sir. I was given access to the mill shipping book. I counted the number of cars, and in case that there was a necessity for car numbers, I asked the girl there, or hired her, to copy the car numbers down.

Mr. Rockwood: I don't know that we can do much with these because of the lack of information which we have, [fol. 3918] but I would like to reserve the opportunity to check these records. We might do it for a month or two when the volume is not large, but I will let you know before the close of this hearing, and we will return these to you.

Mr. Maguire: By implication, you are asking me to agree to a surrebuttal hearing in any form. If so, I will not agree to that.

Mr. Rockwood: I am not making any such request at this time.

Mr. Maguire: There is one question to clarify some of Mr. Rockwood's clarification:

By Mr. Maguire:

Q. You have a list of one hundred and how many car numbers?

A. I think I counted 117 cars on that.

Q. Mr. Rockwood says that out of that will be taken 41 cars of grain doors?

A. That is right.

Q. There are three car numbers which are unreported on there, are there not?

A. That is right.

Q. Do you know whether any of those three car numbers could be grain door car numbers?

A. I believe they could be.

Q. You don't know whether they are or not?

A. I do not.

[Vol. 3919] Q. So you cannot arbitrarily subtract 41 carloads of grain doors out of those 117 car numbers?

A. No.

Mr. Maguire: That is all I have.

Exam. Dishman: Are you through, Mr. Rockwood?

Mr. Rockwood: That is all I have of Mr. Wilson at this time.

Exam. Dishman: Witness excused temporarily.

Mr. Boe: Mr. Examiner, I have some questions, depending on what develops in further cross-examination by Mr. Rockwood, but that will be available when this witness returns.

Exam. Dishman: Yes, to complete his cross-examination.

Mr. Maguire: We will tender Mr. Nickels, who was our first witness yesterday, for cross-examination at this time.

Mr. Rockwood: May I ask, Mr. Maguire, do you have any further witnesses on direct?

Mr. Maguire: No.

Mr. Rockwood: All right. Thank you.

Mr. Maguire: After cross-examination is completed, however, I am going to make a request for incorporation by reference of certain public filings with the Commission, but I think that can be done at that time.

W. H. NICKELS was recalled and testified as follows:

Cross-examination.

By Mr. Rockwood:

Q. Mr. Nickels, will you please look at your Exhibit [fol. 3920] 129?

A. Yes, sir.

Q. This exhibit, as I understand it, is limited to data relating to lumber and forest products, and other commodities from Union Pacific and Southern Pacific origins, on which the U.P. and Southern Pacific were originating carriers, eastbound, via Marengo, Wash., and thence Milwaukee?

A. That is right.

Q. Have you prepared a statement or compiled data to show corresponding volume of shipments westbound via the Marengo gateway and handled beyond Marengo westbound by the U.P. to Union Pacific or Southern Pacific destinations?

A. I have not.

Q. Do you know whether the westbound volume via that route in the year 1953 covered by this exhibit was greater or less than the eastbound traffic?

Mr. Maguire: Before you answer that, Mr. Nickels, I object to that as improper cross-examination. The witness' testimony on direct covered a very definite scope, which is your eastbound lumber shipments.

Mr. Rockwood: And other commodities.

Mr. Maguire: And other commodities, that is true, but that was to rebut certain representations that had been made as to eastbound traffic. We are not offering anything on westbound traffic at all in rebuttal because there [fol. 3921] was no testimony by the defendants.

Mr. Rockwood: What specific testimony are you referring to, Mr. Maguire, that this is intended to rebut?

Mr. Maguire: I don't think that is necessary. If you want to object to it as improper rebuttal, go ahead, and do it.

Mr. Rockwood: I have a question pending. I want to know whether you are objecting to the fact that my question is well founded.

Mr. Maguire: I don't have to answer that question at this time.

Exam. Dishman: This witness did not testify as to westbound shipments?

Mr. Rockwood: No, but I am asking whether he knows whether the westbound was greater or less than eastbound carloads.

Exam. Dishman: Well, whatever it may be worth, if you know.

The Witness: I can't tell him offhand, but I will consult the records.

By Mr. Rockwood:

Q. Turn to Exhibit 130. I just have one question, and this is an easy one on 130:

The total of the lumber and forest products, competitive and non-competitive, on the estimated 12 months' basis, is 4,503 cars. Do you check that calculation? That is the total of 2,871 and 1,632.

A. Yes, sir.

Q. All right. Now, turn to Exhibit 131.

[fol. 3922] This is a statement of cars of lumber and forest products originating at or received from connections.

A. Yes, sir.

Q. Of Milwaukee, Idaho, Washington, Montana, moving through the Twin Cities.

A. Yes, sir.

Q. Of the total cars, 12,123, under classification 411, lumber, shingles and lathe, how many of those were received from connections, and how many originated at points on the Milwaukee?

A. I would have to consult the details. I did not make a separation.

Q. How long would it take you to do it?

A. Quite some time. There are almost 500 sheets here.

Q. I want the figure.

Mr. Rockwood: I request that it be compiled.

By Mr. Rockwood:

Q. How many cars did the Milwaukee originate in the year 1953 of lumber, shingles, and lathe under classification 411?

A. I don't have that information available.

Q. That is in your annual report, is it not?

A. Right.

Q. I show you what has been represented to me to be a copy of the annual report of your company to the I.C.C. for the year ending December 31, 1953. On page 516, under class No. 411, there are 8,427 carloads which originated on the Milwaukee and terminated on the Milwaukee; is that correct?

[fol. 3923]

A. That is right.

Q. And, similarly, there are 18,285 carloads of lumber which originated on the Milwaukee, and were delivered by the Milwaukee to a connecting carrier?

A. That is right.

Q. The total of those two figures is 26,712?

A. That is right.

Q. Now, in addition to the 26,712 cars shown in your annual report as originating on the Milwaukee, do you have any information as to how many cars were received by the Milwaukee from connecting lines of class No. 411?

A. Yes. It is in this same report.

Q. How many?

A. 26,353 received from connections, for the entire system.

Q. That is terminating on line, is it not?

A. That is right.

Q. Those were all received from connections and terminated on the Milwaukee?

A. That is right.

Q. So you received from connecting carriers in the States of Washington, Idaho, and Montana, 26,000 cars from connections?

A. No.

Mr. Maguire: No. That isn't the testimony.

The Witness: This is Milwaukee system. This is the

[fol. 3924]

system report.

By Mr. Rockwood:

Q. You received those from connections. Those included, of course, the cars received from the Great Northern and Northern Pacific at Minnesota Transfer?

A. Yes.

Q. Can you tell me how many carloads were received from short line connections of the Milwaukee in the States of Washington, Idaho, and Montana?

A. Not 100 percent. I don't have it here. If they terminated west of Minnesota Transfer, I wouldn't have it.

Q. I didn't ask for terminated west of Minnesota Transfer. I said received from connections, at stations in Washington, Idaho, and Montana.

A. If it terminated west of Minnesota Transfer, I would not have it.

Q. If it terminated east of Minnesota Transfer, received by you from connections in Washington, Idaho, and Montana, and terminated east of Minnesota Transfer, how many of those were there?

A. I have it in here.

Mr. Rockwood: I would like that figure.

Mr. Maguire: I want to find out how many hours' work is involved in this before I consent.

Exam. Dishman: Let us go off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

[fol. 3925] By Mr. Rockwood:

Q. With the information that you presently have available at your side here in the hearing room, you could tell how many of that 12,123 shown on Exhibit 131 were received from Milwaukee connections in Washington, Idaho, and Montana, could you not?

A. No, sir; I cannot, because I do not have the detail for this Exhibit 131. That was tabulated from our record that we prepare each six months for preparation of our ton-mile by commodity statements. These figures were just drawn from that statement.

Q. So that you are unable to tell us how much of that 12,123 originated at points on the Milwaukee, and how much originated at points on Milwaukee connections in Washington, Idaho, and Montana?

A. I cannot.

Mr. Rockwood: I would like that information.

Mr. Maguire: I decline to furnish it.

Mr. Rockwood: I move the exhibit be stricken.

Exam. Dishman: It hasn't been offered yet.

Mr. Rockwood: I move that all testimony with respect to the exhibit be stricken.

Exam. Dishman: We will reserve that ruling until it is offered.

Mr. Maguire: Let me make an observation upon that motion at this time, Mr. Examiner.

[fol. 3926] Mr. Rockwood: Let us not argue it now.

Mr. Maguire: I will state it because I think it is an outrageous motion, because a witness who comes onto the stand to testify as to a certain thing cannot be reasonably required to go out and get matters which have no bearing whatever upon the exhibit.

Mr. Rockwood: That is what you say.

Mr. Maguire: I know, but I have been with counsel on this matter, for this is about the 26th day of hearing, and throughout this entire hearing the most unreasonable and outrageous requests have been made which have no material bearing on this case, but are apparently to use up time.

Mr. Rockwood: Smile when you say that.

Mr. Maguire: I am not smiling.

Exam. Dishman: Let us wait until the exhibits are offered.

Mr. Rockwood: We will do what we can with the data that you have available.

By Mr. Rockwood:

Q. How many carloads as shown in the annual report of class No. 403 products were originated by the Milwaukee in the year 1953?

A. 2,037, on local, 1,902 on interline forwarded.

Q. Which totals what?

A. 2,139.

Q. Thirty-nine?

A. Thirty-one.

[fol. 3927] Q. Add those up again, will you?

3939, isn't it?

A. Right.

Q. I thought you said 3139. I misunderstood you.

How many carloads in class No. 413?

A. 231 local, 132 interline forwarded.

Q. Which totals 363?

A. Right.

Q. How many in class 415, veneer plywood and built-up wood?

A. 915 local.

Q. 945?

A. 945 local, 3,394 interline forwarded.

Q. The total of that is 4,339?

A. Yes, sir.

Q. Well, now, you gave me these figures, 3939 for class No. 403, 26,712 for class No. 411, 363 for class No. 413, and 4,339 for class No. 415. The total of those figures that I just stated is 35,353 cars, if my arithmetic is correct.

I take it that you received practically none of these products from connections east of the Montana-Dakota line of these products that I enumerated?

A. They could have been received at interchange points —no, it was originated traffic.

Q. That is right.

A. I can't say definitely that we did not.

[fol. 3928] Q. What forest products do you originate east of the Dakota line?

A. Not very much, to my knowledge.

Q. Maybe a little pulpwood, back in Wisconsin or Minnesota?

A. We have that.

Q. You notice I did not include pulpwood in this figure of 35,000.

As a practical matter, 35,353 cars would include all of your lumber products, forest products, which you originate west of the Montana-Dakota line, or which you receive from connections west of the Montana-Dakota line?

Mr. Maguire: If the witness knows.

The Witness: That statement or Exhibit 131 is a statement of cars passing through the Twin Cities. Many cars terminate west of the Twin Cities, which are not included in this statement.

By Mr. Rockwood:

Q. I know that. This 35,000 includes originating in carloads, does it not?

A. Yes, sir.

Q. And does not include any from connections?

A. No, sir.

Q. The figure that I developed from your annual report, and practically all of that 35,353 originated in the State of Montana and west, did it not?

A. I say the majority did.

Q. I call your attention to your statement on 3772 of the [fol. 3929] transcript of the record in this case—the testimony you gave yesterday.

"Is there any substantial amount which originates east of the Montana-Dakota State line, or is it received from connections?"

Then there was a little colloquy between you and counsel, and then:

"Is there any substantial amount in comparison with the total lumber and forest products movement?

"Answer: As far as received from connections—

"Question: Is there any substantial amount in comparison with the total lumber and forest products movement which either originates or is received from connections at stations west of the Montana—"

Mr. Maguire: East of the Montana line.

Mr. Rockwood: Excuse me. The line is the same.

"—which either originates or is received from connections at stations east of the Montana-Dakota line?

"Answer: No, there is not."

That was your statement yesterday. It was correct, was it not?

A. Right.

By Mr. Rockwood:

Q. You show 4,503 cars of competitive and non-competitive forest products in your Exhibit 130. You show 16,574 carloads which moved through the Twin Cities. Is the 4,503 included in the 16,574?

[fol. 3930] A. Yes, sir.

Q. All right; so if we want to find the ratio of the 4,503 which were turned over to these four western trunk line carriers you named in Exhibit 130, we would have to take the fraction, 4,503, divided by the total of 4,503 plus 16,574; is that right?

A. No, sir.

Q. What I am trying to find out is what percentage of the traffic, lumber traffic, which you originated or received from connecting lines, moves through the Twin Cities? Isn't it about 20 percent?

A. Well, I can't answer that question. I would have to do more experimenting on our records at the office.

Q. Can't you do it from this exhibit?

A. No, sir.

Q. You show 16,574 moved through the Twin Cities, and 4,503 car. were delivered to connecting lines—probably I misstated my question.

What percentage of your total movement is delivered to Western Trunk Lines at Minnesota Transfer? About 20 percent?

A. This exhibit 130 does not include the Chicago, Great Western or the Soo Line, so we would not be able to make a definite percentage.

Q. That is right, but for the percentage for carloads delivered to these four that you named, the Burlington, North Western, Rock Island, M. & St. L., it is in the neighborhood of 20 percent of the traffic which moves [fol. 3931] through the Twin Cities; isn't that right?

A. That is right.

Q. And 80 percent of the traffic moved by you to and through the Twin Cities is either handled by the Milwaukee or by the Soo Line, or what is the other one you named?

A. Chicago Great Western.

Q. Chicago Great Western.

Mr. Maguire: Wait a minute.

That, Mr. Examiner, is an erroneous interpretation of this witness' testimony, because the exhibit here, Exhibit No. 131, is traffic which the Milwaukee moved through the Twin Cities, either to stations on or beyond its own lines, east of the Twin Cities. The 4,503 cars, which are the sum of the two totals at the top half of Exhibit No. 30, are cars which were delivered to these four defendants who offered exhibits at the St. Paul hearing, so that it cannot be said there is still an unspecified number of cars, but the witness has testified a substantial number of cars delivered at the Twin Cities to other connections, or other Twin City lines, as we might call it, and so that counsel, in asking that question, is just simply ignoring these other cars, of which there is a substantial number, delivered to other connections at the Twin Cities.

Mr. Rockwood: I said the 80 percent figure I gave included the cars which were handled by the Milwaukee direct [fol. 3932] through the Twin Cities without interchange, and included the cars delivered to other lines, such as the Great Western and the Soo Line.

Mr. Maguire: Your assumption is wrong, then. That is what I am saying.

Exam. Dishman: Is that your understanding of the situation, Mr. Nickels? What Mr. Maguire has just said?

The Witness: Yes, sir; it is.

Mr. Rockwood: Will you please state, Mr. Nickels, what Mr. Maguire just said, and what your understanding of your exhibit is?

The Witness: That the 16,000 cars represents traffic that we hauled through the Transfer. The cars that we have tabulated for the four lines is a part of our interchange traffic, and does not include the Soo Line or the C.G.W. traffic.

By Mr. Rockwood:

Q. You handled through yourself 16,000 cars?
A. That is right.
Q. Is that right?
A. That is right.

Q. Without interchange at the Twin Cities?

A. That is right.

Q. And you delivered to these four western trunk lines 4,500 cars; is that right?

A. That is right.

[fol. 3933] Q. Have you any notion how many cars you delivered to connecting carriers at the Twin Cities, other than the four western trunk lines named?

A. I do not.

Q. You haven't any notion whatsoever?

A. No, sir.

Q. Did you deliver to the Soo Line and the Great Western, and any other connections as much as you handled through direct, yourself?

A. That I cannot answer.

Q. You don't know?

A. No.

Q. Is there any way of telling from any data that you have given us here how much of the traffic you handled as far east of the Twin Cities as delivered to connecting lines, and how much you keep to yourself beyond the Twin Cities?

A. Yes, the detail for Exhibit 130 I have here.

Q. Well, now, that doesn't say—that is not complete because I was asking delivered to all connections, including these four, and any others.

A. No, I don't have that.

Q. You don't know. That is the answer?

A. That is right.

Q. And you have no way of telling?

A. No, sir.

[fol. 3934] Q. I ask only this question: Do you deliver to the Soo Line and Great Western at the Twin Cities as much as you deliver to the four other western trunk lines, Q. North Western, Rock Island, M. & St. L.?

A. I do not know.

Q. If you don't know how are you able to say that the interchange is substantial?

A. Well, it is just from experience in the office, of seeing the traffic. I know there is some but just how much I do not know.

Q. What do you mean by the word "substantial"?

A. There is a volume there.
Q. A big volume or tiny volume?
A. That is pretty hard to say.
Q. You don't know?
A. No.
Q. So if it is a tiny volume you would call that substantial?
A. Not necessarily.

Mr. Maguire: This is just heckling. This is old police court stuff that is being called on us this morning.

Mr. Rockwood: I am trying to get information, but apparently—or I will say apparently the witness doesn't have it. I will let it go at that.

Mr. Maguire: I think if you would read the case of Bardell v. Pickwick, in Pickwick papers, you would find the [fol. 3935] same sort of cross-examination that you are putting on here this morning.

Mr. Rockwood: Successful or unsuccessful?
Exam. Dishman: Let us proceed.
Mr. Maguire: It was unsuccessful.
Mr. Rockwood: That is all the cross-examination I have.
Exam. Dishman: Any other cross-examination?
Mr. Boe: Yes, I have some questions,
Exam. Dishman: Mr. Torinus?
Mr. Torinus: Yes.
Exam. Dishman: All right. We will go around the line.

By Mr. Torinus:

Q. Mr. Nickels, on your Exhibit 131, in the heading you show cars of lumber and forest products originating in these three named Western States: Washington, Idaho, and Montana, and received from connections in those states, moving through the Twin Cities via your railroad, and terminating east of the Twin Cities.

Do you include the State of Iowa in the territory east of the Twin Cities?

A. Only where our freight routing manual provides for traffic through the Twin Cities to stations in Iowa.

Q. Well, do these 16,574 cars on Exhibit 131 include lumber and forest products originating or received from

connections in those three western States, and terminating in the State of Iowa?

[fol. 3936] A. Some terminations are in Iowa, eastern Iowa, routes through the Twin Cities from Idaho, Washington, and Montana.

Q. Did you check the routing on all these cars that are included in Exhibit 131?

A. Yes. We have a tabulation on which we apply a routing code and they were drawn from that tabulation.

Q. Is my understanding correct, that in this 16,574 cars there are cars which terminated in the State of Iowa, which were handled by the Milwaukee through the Twin Cities, but not cars terminating in the State of Iowa which were handled by the Milwaukee through the Aberdeen line down to Sioux City, for example?

A. That is right.

Q. You have not, then, I take it, included in the 16,574 cars that the Milwaukee has held on to cars which it terminated in the State of Missouri, or which it delivered to connections in the State of Missouri, except those that were handled through the Twin Cities gateway?

A. That is right.

Q. So that there is a very substantial number of cars with respect to which the Milwaukee reserved the long-haul and which it handled in a manner other than through the Twin Cities, which originated or were received from connections in those western States, but do not appear in Exhibit 131?

Mr. Maguire: Before the witness answers, I think it only [fol. 3937] fair for counsel to explain what he means by the phrase "upon which the Milwaukee reserved to itself the long haul." I don't find that is a non sequitur in my opinion in that question of yours.

Mr. Torinus: Exhibit 131 purports to show cars of lumber and forest products originated and received from connections which the Milwaukee itself handled through to destination, or which it handled through and beyond the Twin Cities and turned over to some other connection beyond the Twin Cities. I am simply asking this witness if there are not a substantial number of other cars originated

by the Milwaukee Railroad in the three Western States named, or received from connections by the Milwaukee, at stations in the three Western States named, which are not included in this Exhibit 131, though handled by the Milwaukee to destinations east of the Twin Cities via other routes.

Is that clear, Mr. Nickels?

The Witness: No, sir.

Mr. Maguire: It isn't clear to anybody. Is it clear to you?

Mr. Musenbrock: It is perfectly clear.

Exam. Dishman: What do you mean by other routes, Mr. Torinus?

Mr. Torinus: I mean Exhibit 131 is simply limited—let me ask Mr. Nickels the question so we will have it on the record.

[fol. 3938] By Mr. Torinus:

Q. Exhibit 131 is simply limited to traffic originated by the Milwaukee or received from connections in the three Western States, handled all the way to destination by the Milwaukee Railroad, through the Twin Cities, or handled by the Milwaukee through the Twin Cities and delivered to some connections of the Twin Cities; isn't that correct?

A. That is right.

Q. To the extent that your railroad participated in traffic, originating or received from connections in those western States, in the lumber traffic described in the heading of this exhibit, which was not handled by the Milwaukee through the Twin Cities, those cars are not shown on this exhibit?

A. No. They do not terminate east of the Twin Cities, or were they delivered to connections east of the Twin Cities.

[fol. 3939] Q. I think you misunderstood my question.

Let's take a car that was originated by the Milwaukee in the State of Washington, and which was handled via your railroad eastward through Aberdeen and Sioux City, and delivered to a connecting line at St. Louis, or Kansas City. That would not be included, would it?

A. Yes. Kansas City would be included. Our freight train manual provides that traffic destined to Kansas City

or delivered off at Kansas City will move through the Twin Cities, and is included.

Q. Well, your freight train manual also provides that the Twin City route is not an exclusive route and the traffic can move via other routes; isn't that correct?

A. Yes, on tie-ups or derailments, or where traffic is blocked. They do use another route.

Q. You don't mean to tell us that a carload of lumber originating at Martin, Washington, destined to Kansas City, which moves Milwaukee all the way, has to move through the Twin Cities?

A. Yes, sir. That is the routing.

Q. You are saying that is the exclusive and only route that you have?

A. Oh, no. No, it is not the only route we have, but the freight train manual provides routing that way for it.

Q. It also provides routing via Aberdeen and Sioux City, does it not?

[fol. 3940] A. It can be routed that way.

Q. My question is: Where it was handled that way, is it included in this 16,574 cars?

A. No.

Mr. Maguire: You mean where a car was actually handled that way?

Mr. Torinus: Where a car was actually handled that way.

The Witness: From our tabulation, we took all originations and received in these Western States, going to Kansas City, and included it in this statement as moving through the Twin Cities.

Mr. Maguire: Could I interrupt with a question for clarification? Regardless of actual route of movement?

The Witness: Yes.

Mr. Maguire: I think that is what you have in mind, Mr. Torinus.

By Mr. Torinus:

Q. Then anything that terminated—any cars that terminated at Kansas City or in the State of Iowa, or in the State of Missouri, with respect to which routing is

provided through the Twin Cities, are included in these 16,574 cars, even though they may actually not have moved through the Twin Cities?

A. That is right.

Q. Now, the Milwaukee originates, as you brought out in response to Mr. Rockwood's questioning, on its lines, west [fol. 3941] of the Montana-Dakota State Line, a total of over 35,000 cars in commodity classifications 403, 411, 413 and 415; that is, it did originate a total of over 35,000 of those cars west of the Montana-Dakota State Line in the year 1953, according to your testimony?

A. In accordance with the annual report.

Q. In addition, the Milwaukee received from connections numerous cars in those commodity classes, did it not, in 1953?

A. That is right.

Q. Considering the fact that your Exhibits 131 and 130 show a total of only approximately 21,000 cars, it is obvious, is it not, Mr. Nickels, that approximately 14,000 cars or more originated by the Milwaukee in those Western States, or received from connections in those Western States, were handled via other routes?

A. Apparently so.

Mr. Torinus: No further questions.

Mr. Maguire: Could I do this, Mr. Examiner: I think this may keep it on a more even basis if I have a question on redirect after one counsel has finished on cross examination. Could I go ahead, then?

Exam. Dishman: All right.

Redirect examination.

By Mr. Maguire:

Q. Now, this last question of Mr. Torinus as to the remainder of the cars which were originated—cars of these commodities which were originated or received from con- [fol. 3942] nections west of the Montana-Dakota State Line, you say they moved over different routes than shown on Exhibit No. 131. Did all of those cars some over into the same territory as the cars covered by Exhibit 131, or

are there numerous terminations out in Western Territory of these commodities?

A. There are numerous terminations and also there are deliveries at Sioux City and Omaha which would not move through the Twin City.

Q. But do you know, or can you state from your general experience of the freight statistics of the Milwaukee whether there is a large portion of the lumber movement which never gets out of Western Territory, as far as the Milwaukee is concerned?

Mr. Rockwood: Just a minute.

Mr. Examiner, general questions such as that might be proper if we were in a position to cross examine on the subject, but Mr. Maguire has effectively closed the door and refused to give information, and I object to such generalizations in questions as "a large portion" or "that does this or does not", unless the witness is prepared to tell how much or furnish the data as to how much.

Mr. Maguire: This is a redirect of the same questions of character asked by counsel.

Exam. Dishman: The witness may answer, if he knows.

Do you have that knowledge?

The Witness: I don't have any definite knowledge on it. [fol. 3943] From experience there is considerable lumber terminated west of the Twin Cities.

Exam. Dishman: But you couldn't give—

The Witness: Iowa, the Dakota's—

Exam. Dishman: You couldn't give a proportion?

The Witness: No, sir. I could not give any percentage.

By Mr. Maguire:

Q. As to territory west of the Montana-Dakota Line; that is, in the Pacific Northwest, let us say, do you know whether there is a substantial amount of lumber traffic which never gets out of the Pacific Northwest, so far as our handling is concerned?

Mr. Rockwood: Same objection, using the word "substantial".

Exam. Dishman: Can the witness state?

The Witness: There is a volume. I can't definitely state how much.

Mr. Maguire: All right. That is all.

Exam. Dishman: Do you have anything, Mr. Boe?

Mr. Boe: Yes.

Exam. Dishman: We are coming on around. Mr. Golden?

Mr. Golden: No questions.

Exam. Dishman: Mr. Hillman.

Mr. Hillman: Could I indicate my appearance: Mr. Hillman, H-i-l-l-m-a-n, for the Chicago, North Western Railway System.

Exam. Dishman: Mr. Hillman has an appearance heretofore.

Recross examination.

[fol. 3944] By Mr. Hillman:

Q. Your Exhibits 130-31 are compiled differently, at least to the extent that, on 131, no origins or interchange points east of the Montana line are shown; is that correct?

A. That is correct.

Q. Now, as to the lumber and forest products shown in Exhibit 130, of the shipments indicated in that exhibit under that category, are they similarly limited as are the shipments in 131, or does the description on 130 cover all origins and interchange points west of Minnesota Transfer, and also apply to lumber and forest products there?

A. That is right.

Q. Of the total of 4,503 cars of lumber and forest products, to which figure you have already referred in your answer to Mr. Rockwood's question, how many of those cars originated or were interchanged east of the Montana line?

A. I don't have that information.

Q. You don't have that information? Well, you have given some opinions to the effect that no substantial amount of traffic originated or was interchanged east of the Montana line. Now here you have some total figures, and what I am asking you is whether, on the basis of these figures,

you can tell us how many cars originated and were interchanged east of Montana.

A. On Exhibit 130?

Q. Yes, sir.

[fol. 3945] A. Yes. I can get that. I have it here. It will take time to work it up.

Q. In view of the fact of some rather general statements having been made covering that subject, and since the figures are available, I think it would be very helpful to have that fact on the record.

Mr. Hillman: It might also relate to the opinion which was given with respect to the amount of traffic shown in 131; that is, which is handled by the Milwaukee through Minnesota Transfer and the opinion given in relation to that, that not much originated or was interchanged east of Montana.

I think I would like to ask that information to be given to us.

Mr. Maguire: I think we are going to kind of have a clearinghouse on requests here and see just how much time it is going to take Mr. Nickels to get this out of the data that he has here. I would suggest that request be postponed until Mr. Rockwood's requests are finally clarified.

Mr. Hillman: There is one difference. Mr. Nickels has indicated he has the information here available.

Mr. Maguire: He also said he had information available on questions asked by Mr. Rockwood. It is a question of time.

Exam. Dishman: Will you make a note of that, Mr. Hillman?

We will discuss that off the record a little later.

By Mr. Hillman:

Q. May I ask one clarifying question?

[fol. 3946] Mr. Nickels, on 131 you refer to lumber and forest products originating at or received from connections and stations in Washington, Idaho and Montana. Now, do I understand correctly that some of those cars may have

originated on other lines in Washington, Idaho and Montana, and may have been interchanged to the Milwaukee east of the Montana Line?

A. No.

Q. All the interchange from other lines shown in Exhibit 131 was interchanged west of the Montana Line?

A. That is right.

Q. So my request for information then relates to cars which either originated east of the Montana line, or were interchanged to the Milwaukee east of the Montana line?

A. Your request was related to Exhibit 130, as I understood it.

Q. Yes. What I really want is a statement of the cars which are covered by 130, of a type which are not covered by 131.

A. That is right.

Q. Is that clear?

A. Yes.

Mr. Hillman: I will note that request as you suggest, Mr. Examiner. This is all the cross examination I have, subject to whatever answer Mr. Nickels may give to that request.

Exam. Dishman: Do you have any questions, Mr. Maguire?

Mr. Maguire: None on Mr. Hillman.

Mr. James: I have a question or two.

[fol. 3947] Recross examination.

By Mr. James:

Q. I am not clear as to how you classified the information on Exhibit No. 130 as to competitive or non-competitive, and I will confine my question, or my request, that you elaborate that to the CB&Q tonnage.

A. The detailed sheets were compiled from the original records and furnished to the Traffic Department for a separation of competitive and non-competitive traffic.

Q. Do you know the characteristics of the traffic which governed?

A. The Traffic Department did that.

Q. You don't know?

A. I don't know.

Q. You couldn't take any car, any specific movement and indicate whether or not that movement was classified as competitive or non-competitive?

A. Yes, I could tell you that.

Q. Tell us this: Take a car of lumber moving from the Western Milling Company, at Port Angeles, Washington, to Hamilton, Ohio, routed via East St. Louis, and thence the B&O to destination. Would you have classified that as competitive or non-competitive?

A. If I remember correctly, a movement of that nature was classified as competitive because it could have been handled through Chicago.

Q. You assume, then, that that movement was handled [fol. 3948] through Chicago?

A. That is right.

Mr. Maguire: He didn't say that.

Exam. Dishman: He said it could have been.

The Witness: That is right.

By Mr. James:

Q. You wouldn't know how it was handled? The more direct way, perhaps, would be through Savannah and Galesburg from Minnesota Transfer to East St. Louis, would it not?

A. That is the normal route.

Q. That is the normal route, but, of course, the Milwaukee does not reach East St. Louis; is that true?

A. That is right.

Q. You treated that as competitive traffic; is that true?

A. It was treated that way if there was a movement of that nature.

Q. Are there a substantial number of cars in your exhibit which likewise were routed via junctions reached by Western Trunk Line and not reached by the Milwaukee?

A. No, I don't believe so. The majority of the traffic delivered off junction is common with the Milwaukee.

Q. Well, a movement originating from an origin in Washington to Shelbyville, Kentucky, moving by East St.

Louis, and the L&N to Destination; that also would be treated as competitive?

A. It probably would be.

Q. If you know.

[fol. 3949-50] A. If there were a movement of that nature, I believe it would be.

Q. How about a similar movement destined to the town of Aviston, Illinois, via Beardstown, Illinois, and thence B&O to destination?

A. I don't believe there is a classified movement of that nature competitive.

Q. You think that should not be treated as competitive?

A. No.

Q. How do you distinguish between competitive and non-competitive as related to movements which move over a Western Trunk Line to a junction point which the Milwaukee does not serve? Are those competitive or not?

A. As I previously stated, the question of competitive or non-competitive was answered by our Traffic Department for me.

Q. So you don't know; is that correct?

A. That is right.

Mr. James: That is all.

Exam. Dishman: Any questions?

Mr. Maguire: Just a moment.

Recross examination.

By Mr. Maguire:

Q. As to details, what is the decision by the Traffic Department as to details or on the general principles?

A. More or less general principles.

Q. Are you familiar with what the general principles [fol. 3951] were that were used in making this segregation? Let's take a shipment to New York City, for example, or anywhere in New York State. If you had one of those, and if it were routed around through one of the, say, if your routing runs through East St. Louis or some junction which the Milwaukee does not serve, would that be still classified as competitive traffic?

A. Yes, sir.
Q. Because we can serve directly through Chicago?
A. That is right.
Q. Is that the general principle involved there?
A. Yes, sir.

Mr. Maguire: That is all.

Recross examination.

By Mr. James:

Q. That same condition would apply to a route via Beardstown, Illinois, wouldn't it? That could be reached through Chicago, couldn't it?

A. I believe you mentioned a station that I was not acquainted with, and I didn't think that route could be handled through Chicago.

Q. If it could be, even though, circuitously; then you would treat it as competitive?

A. That is right.

Mr. James: That is all.

Exam. Dishman: Let's take a short recess now.

(Recess taken.)

Exam. Dishman: The hearing will be resumed, gentlemen.

[fol. 3952] Were you through, Mr. James?

Mr. James: Yes, Mr. Examiner.

Exam. Dishman: Mr. Rockwood.

Mr. Rockwood: Mr. Examiner, Mr. Maguire is not here yet.

Mr. Examiner, may I ask Mr. Nickels a question? This has to do with his Exhibit No. 1, some comments he made, and is not in line with the new material put in. May I ask that question now?

Exam. Dishman: All right.

Recross examination.

By Mr. Rockwood:

Q. On page 3766 of the transcript, you were asked, with respect to your check of your sheets 24 to 28, inclusive, of your Exhibit No. 1, and you answered on 3767, "I have rechecked this statement and I find it a hundred percent correct. The entire accounts were rechecked." And it was pointed out that the discrepancy between your figures and Mr. Ehlen's was some 69 cars out of a total of 1057. Do you have your work sheets here for your re-check?

A. All I have with me, we made a count of the cars by months.

Q. That is the only work sheet you have here? There are no details as to car numbers or anything else?

A. No, sir.

Mr. Rockwood: I was going to suggest Mr. Ehlen has his work sheets back of his exhibits here and I was hoping we would be sitting down with Mr. Nickels and reconcile. Ap- [fol. 3953] parently we can't. That is all. Thank you.

Exam. Dishman: Mr. Musenbrock.

Mr. Musenbrock: Yes, sir.

Recross examination.

By Mr. Musenbrock:

Q. Mr. Nickels, Exhibit 130. When you say "received from connections at points west of the Twin Cities", what connections had you in mind in preparing this exhibit?

A. The majority is Sumas, Washington—

Q. I didn't mean as to points. I meant as to railroads.

Mr. Maguire: He was going to say.

By Mr. Musenbrock:

Q. All right, I will get both of them, then.

A. Sumas, Washington, with the British Columbia Electric, Columbia-Cowtitz, Chahalis.

Mr. Maguire: I think you maybe misspoke yourself. The junction of the Columbia and Cowtitz you said was Chahalis. That is the CC&C, isn't it, a different railroad?

The Witness: Yes, sir. I believe it is.

Mr. Maguire: Are you talking about the Columbia and Cowtitz Railroad or—

The Witness: Both. I intended to mention the other one also.

Mr. Maguire: Go on from Chahalis.

The Witness: We get some off of the Washington, Idaho and Montana, and I believe the interchange is Bowville. [fol. 3954] That is the majority of them.

Mr. Maguire: I want to clarify one thing. I think you want a complete answer to that, Mr. Musenbrock.

Mr. Musenbrock: Yes.

Mr. Maguire: How about the Spokane International Railway?

The Witness: We do get some off of the Spokane International at Spokane Interchange east at Maringo.

By Mr. Musenbrock:

Q. What other railroad, if any, at Maringo?

A. Union Pacific at Maringo.

Q. That would be a connection, too, wouldn't it, at Maringo?

A. That is right.

Q. You possibly would get some cars also from the two northern lines, the Great Northern and NP, wouldn't you?

A. Not for movement east to Minnesota Transfer.

Q. Is that the only connection you have at Maringo with the UP and the Spokane International?

A. Spokane International at Spokane.

Q. At Spokane. Well, then, all right. At Maringo, is that the only connection at Maringo with the UP?

A. Yes.

Q. Now, of these cars—and I refer you to the 750 competitive cars for the M&St. L in that exhibit, could you tell us how many of those cars were received from connections west of the Twin Cities and how many originated on the Milwaukee Railway?

A. From the tabulation of these sheets I could do it.

[fol. 3955] Q. You don't know offhand whether half of them originated and half were received, or whatever the percentage may be? You have no notion?

A. I have no idea right now.

Q. Were these figures furnished you by the Traffic Department?

A. No, sir.

Q. You compiled them yourself?

A. Yes, sir.

Q. But the Traffic Department determined which was competitive and which was not competitive?

A. They assisted us on cases which we could not offhand decide on. Generally we took any competitive point.

Q. Did you resolve the doubt in favor of competitive traffic?

A. No, sir.

Q. When the question arose you took the Traffic Department's decision finally, however?

A. Yes.

Q. And on a non-competitive traffic, the 99 cars, you have no idea at all how many of those originated on the Milwaukee Railroad or how many were received from the connections you mentioned?

A. Not without a check of the detail.

Q. You have that detail here?

A. I have.

Mr. Musenbrock: If the Examiner please, I think he is [fol. 3956] going to make some studies on those details. I wish he would add this with it.

Exam. Dishman: Make a note of that.

Mr. Musenbrock: The request will be of the witness that he break down the figures, 750 competitive cars, and the 99 figure non-competitive cars shown on Exhibit 130, so as to show which cars, if any of those, were received from connections west of the Twin Cities and which originated on the Milwaukee; that is, local business.

Exam. Dishman: All right.

By Mr. Musenbrock:

Q. You have no figures showing the revenue on these cars that accrued to the M&St. L?

A. No, sir.

Q. You neither have it on the exhibit, obviously, and you also do not have it in your detail?

A. No. We tabulated number of cars.

Q. Just the number of cars?

A. That is right.

Q. Can you say that these cars had specific routing or were unrouted cars?

A. I can not.

Q. And by "unrouted cars", so that we understand one another, I mean cars on which the Milwaukee had the right to route.

A. I can not tell that.

Q. And specific routings, where the shipper routed; you [fol. 3957] understand that?

A. Yes.

Q. You had nothing on it?

A. No.

Mr. Maguire: If it will be of any help to you, I am willing to stipulate the vast majority of all cars of lumber shipped are routed by the shipper, if that is the point you are trying to bring out.

Mr. Musenbrock: I am not trying to bring that out at all, Mr. Maguire. The point I wanted to bring out I have already brought out.

Mr. Maguire: I will withdraw my stipulation then.

By Mr. Musenbrock:

Q. Exhibit No. 130 is restricted to the Twin City gateway with the M. & St. L. Did you make any check at all as to whether you interchanged any cars with the M & St. L at the Aberdeen gateway?

A. No, sir.

Mr. Musenbrock: That is all.

Mr. Boe: I have some questions.

Mr. Maguire: Before you proceed, Mr. Boe, did you

make any check, or are there included in here any interchange from the Milwaukee to the M & St. L at Chaska, Minnesota?

The Witness: No, sir.

Mr. Maguire: Are they included?

The Witness: No, sir.

[fol. 3958] Mr. Maguire: That is all I have.

Exam. Dishman: Mr. Boe.

Recross examination.

By Mr. Boe:

Q. Mr. Nickels, will you please refer to your Exhibit 129 in connection with some questions I want to ask you?

Now, your first column there, up on the top of the exhibit, has three classes of movements; first, to points on the CM, St. P&P; second, to destinations on connections west of Chicago; and third, to destinations on connections east of Chicago.

Now, the points on the Milwaukee, in the first column, where are they located generally, as far as the Chicago area is concerned, the Mississippi River, and then farther west?

A. There is no separation as to territory. The entire Milwaukee Railroad.

Q. Does it include any points east of Chicago on the Milwaukee? I have in mind the Terre Haute Division.

A. If there was a movement, it would include it, yes.

Q. And, in other words, it includes every point on the Milwaukee, Terre Haute Division included, west of the Aberdeen, South Dakota point; is that right?

A. No. Some of these may have terminated west of Aberdeen.

Q. Some of it may have terminated west of Aberdeen?

A. Yes.

Q. You can't say from this exhibit how much of it did [fol. 3959] terminate west of Aberdeen?

A. No, sir.

Q. It is all lumped together, from Terre Haute, Indiana, to West of Aberdeen, South Dakota; is that right?

A. All points on the Milwaukee.

Q. All right. Do you know the difference between Western Trunk Line Territory and Southwestern Freight Bureau Territory?

A. Generally.

Q. Do you know where the dividing line is generally between those territories? It is the Missouri River?

A. Missouri River.

Q. Between St. Louis and Kansas City, generally the dividing line between Western Trunk and Southwestern Freight Bureau Territory?

A. Right.

Q. Now, then, going to the next column, to destinations on connections west of Chicago, does that column in both segments from Union Pacific and Southern Pacific include both Western Trunk and Southwestern Freight Bureau territory?

A. Well, the interchange point would be in Western Trunk Line Territory.

Mr. Maguire: Pardon me. Would you read the answer, please, Mr. Reporter?

(Answer read.)

By Mr. Boe:

Q. I understand that, but this column here is to destina-
[fol. 3960] tions on connections west of Chicago.

A. It may also include some on-line points. Examination of the detail would have to be made.

Q. I understand from your answer as to location of the Milwaukee Railroad that the point of interchange would be in Western Trunk Line Territory?

A. Yes.

Q. But the destination necessarily would not be in Western Trunk Line Territory?

A. That is right. No. These are all terminations—no, they are not. They could be in Southwest. They could be in Southeast.

Q. Well, now—

A. Southwest, rather, for west of Chicago.

Q. I am directing your attention at the moment to this column that you have to destinations on connections west

of Chicago. As I understand, up to now, the exhibit and your testimony can't break down the figures that are shown under this column as between Western Trunk and Southwestern Freight Bureau Territory.

A. Examination of the detail would have to be made to break it down.

Q. You don't know that without examining detail?

A. No, sir.

Q. Did you prepare this information from waybill studies?

[fol. 3961] A. From freight accounts.

Q. I am not too clear about freight accounts. Do you mean—

A. The settlements with the Southern Pacific and the Union Pacific and also other road settlements; we acted as an intermediate carrier.

Q. Do you have detail with you to show the separation as between Western Trunk Line and Southwestern Freight Bureau Territory under this column to destinations on connections west of Chicago?

A. Yes.

Mr. Boe: Mr. Examiner, along the lines of the questions asked by previous counsel, I think that if the witness has the detail and can readily supply it, I am going to ask for a further break-down as between Western Trunk and Southwestern Freight Bureau Territory under this column.

Mr. Maguire: I understand these requests will all be made at one time later on.

Exam. Dishman: Yes.

By Mr. Boe:

Q. Now, then, am I correct in assuming that you don't know particularly how the freight rates apply from this origin territory to points in Western Trunk Line Territory, for first grouping? I am correct in that, that you know nothing particularly about the publication of rates in connection with that territory?

A. I am not a rate expert.

[fol. 3962] Q. Is that also true so far as Southwestern Freight Bureau territory is concerned?

A. That is right.

Q. Are you able to say what portion of the traffic that is listed on your Exhibit 129 moves through the Milwaukee, Aberdeen, Sioux City, Council Bluffs gateway as contrasted to the Minnesota Transfer?

A. Well, examination of the detail would have to be made. I don't know if it is complete as to off-going interchange points. I would have to examine it.

Q. So at this juncture you can't say that 100 percent of what you show on your Exhibit 129 always channeled through Minnesota Transfer?

A. No.

Q. Or whether all of it was channeled through the Aberdeen, Sioux City, Council Bluffs gateway to Milwaukee?

A. No.

Mr. Maguire: I might comment as to that question, Mr. Examiner, that the sole purpose—not the sole purpose, but so far as this particular issue is concerned raised by Mr. Boe, we are attempting to show all the traffic during the periods mentioned here which we received, all the lumber and other traffic which we received from the U.P., which originated on the U.P. or the Southern Pacific, and which we hauled over our line, through Marengo. The purpose of this exhibit—this exhibit does [fol. 3963] not have a direct relationship to exhibits Nos. 130 and 131. I don't know—

Mr. Boe: My questions are wholly apart from Exhibits 130 and 131.

Mr. Maguire: I might as well make a statement to counsel on that. We have not split up any gateways, routes, or anything else in this exhibit, or in our data. The purpose of this exhibit is to show, in face of the tremendous tonnage which is shown by Exhibit 112, which is available to the Milwaukee, that under the rate restrictions we get a very miserable amount of business of of either the U.P. or the Southern Pacific. That is the purpose of that exhibit.

Mr. Boe: Let me go a step further, Mr. Magaire. As far as Exhibit 129 is concerned, none of the traffic listed on that exhibit might have moved through Minnesota

Transfer. Fifty percent of it might have been, or more. You can't tell from this exhibit whether any of it moved through Minnesota Transfer.

Mr. Maguire: I think you can say from the exhibit that this traffic which we received from the U.P., which originated on the U.P., and the Southern Pacific, which we received at Marengo, and which we hauled through to points on the Milwaukee Railroad, and to points on our connections. That is all that exhibit shows.

I don't accept any theoretical proportions or anything of [fol. 3964] that sort. That is just what the exhibit shows.

Mr. Boe: I am not any more theoretical than you are in connection with this exhibit. If you are not able to show specifically by this witness in connection with this exhibit how much of the traffic channeled through your Council Bluffs gateway, and how much of it channeled through your Twin Cities gateway; you can't tell that, and this witness can't tell that.

Mr. Maguire: You are talking about Council Bluffs. Do you mean received by U.P. at Council Bluffs?

Mr. Boe: No, I mean moving by Marengo. I don't know where you received it.

Mr. Maguire: It says Marengo.

Well, Mr. Examiner, I have stated what the purpose of the exhibit is, and these attempts—

Exam. Dishman: You don't have that breakdown?

Mr. Maguire: I do not have it, and do not intend to produce it at this time.

Exam. Dishman: Any more questions, Mr. Boe?

Mr. Boe: Yes.

By Mr. Boe:

Q. I want to understand from the witness that as far as Exhibit 129 is concerned you are not able to tell the Examiner at this time whether any of the traffic that is listed there moved through the Twin Cities, are you?

A. I would say that all this traffic moving to destinations east of Chicago will move through the Twin Cities.

[fol. 3965] Q. You are not sure about that, though?

A. Yes. I am definite about this east of Chicago business.

Q. Let me ask you this question, then: If a shipment originated in the Pacific Northwest, and was billed to a destination on the Milwaukee west of Des Moines, and was moving in that direction, and then rebilled to an eastern final destination, would that move through the Twin Cities?

A. I haven't checked even to re-billed traffic. This is just a through traffic that we tabulated.

Q. If it was diverted in transit, that would be—

A. If it was diverted in transit, east?

Q. Yes.

A. I wouldn't know how it routed in.

Q. You wouldn't know whether it would come through the Aberdeen gateway or via St. Paul?

A. You would have to examine your waybills.

Q. This might include shipments that were diverted in transit; is that right?

Mr. Maguire: If the witness knows.

The Witness: I don't know of any such case, and I can't tell you "yes" or "no" on it.

By Mr. Boe:

Q. And your answer would be the same as far as destinations to Southwestern Territory are concerned, wouldn't it?

A. Yes.

[fol. 3966] Q. You don't know?

A. Not without examination of the details.

Q. Do you have detail with you so you could give us some examples?

A. Yes, I have details.

Mr. Boe: As I understand, Mr. Maguire, this witness is going to attempt to show some detail with respect to—

Exam. Dishman: We are going to discuss that.

Mr. Maguire: Counsel are going to request that he show some detail.

Exam. Dishman: We will discuss that later.

Mr. Boe: I would like to reserve the same right with respect to Exhibit 129 insofar as my questioning has been conducted.

Exam. Dishman: Do you have more questions?

Mr. Boe: I believe not.

Mr. Hillman: Could I ask a clarifying question, Mr. Examiner?

Exam. Dishman: All right.

By Mr. Hillman:

Q. Mr. Nickels, in your caption on 130 you describe the movement of cars there as those going through the Twin Cities. As I understood an answer you gave to a question by Mr. Torinus and by Mr. Maguire, it raises the further question in my mind as to whether these cars might not include all of those which are interchanged to the four western trunk line carriers shown, regardless of whether [fol. 3967] they actually move through Minnesota Transfer. That is, does this include any interchange to these four carriers other than through Minneapolis-St. Paul?

A. No.

Q. Might it include Aberdeen or Council Bluffs?

A. No.

Q. You did indicate in answer to Mr. Torinus' question that some of the traffic shown on 131, I believe it was, did not physically, or did not necessarily move through Minnesota Transfer. For example, I believe you gave a specific example of something moving down to Kansas City which may not have gone through Minnesota Transfer, but which was shown on the exhibit.

A. Normally, it routes through the Twin Cities. Actual movements I do not know.

Q. I am sorry.

Would you read the answer?

(Answer read.)

Mr. Hillman: May we go off the record?

Exam. Dishman: All right.

(Discussion off the record.)

Exam. Dishman: On the record.

By Mr. Hillman:

Q. I will repeat or rephrase the question I previously asked: Is it possible that any of the cars which are indicated on Exhibit 130 under lumber and forest products [fol. 3968] were interchanged to the four Western Trunk Line carriers shown at any points other than Minnesota Transfer?

A. As far as Exhibit 130, all cars reported down here were interchanged at the Twin Cities.

Mr. Maguire: You mean actually interchanged?

The Witness: Actually interchanged at the Twin Cities.

By Mr. Hillman:

Q. With reference to this Kansas City route that we have just got done talking about—

Mr. Maguire: Which exhibit are you talking about, Mr. Hillman, so we can keep straight on it?

Mr. Hillman: As I understand the questions that were asked before, they related to 130.

Mr. Maguire: Yes.

Mr. Hillman: And on 131 you use the phrase "moving through the Twin Cities."

By Mr. Hillman:

Q. I understood you to have given the answer to questions asked you by Mr. Torinus and Mr. Maguire that even though you used the term "moving through the Twin Cities," on Exhibit 131, some of the cars didn't actually move through the Twin Cities.

A. As I stated before, we prepared a station-to-station movement, and applied the freight train manual and that manual provided for traffic going to Kansas City from the Northwest, will route through the Twin Cities. That is what we recorded.

Q. So any answers that you gave to Mr. Torinus' ques- [fol. 3969] tion as to whether the traffic on 131 actually moved through the Twin Cities would be given with respect to the same questions in connection with 130?

Mr. Maguire: No, that is exactly not it.

Mr. Hillman: I would appreciate getting an answer from the witness, Mr. Maguire.

Mr. Maguire: You got it.

Mr. Hillman: I got an answer from Mr. Maguire.

Exam. Dishman: What is your answer?

The Witness: He is talking about Exhibit 131. That is traffic that we hauled through.

Exam. Dishman: He asked then about 130, if that is the same. What is your answer?

The Witness: On 130 this traffic interchanged through these connections at the Twin Cities.

Mr. Maguire: You will recall, Mr. Examiner, that I interposed the words "Was that actually interchanged there?" and Mr. Nickels said "yes." Mr. Hillman has had that question answered for him before.

Mr. Hillman: I think that the witness showed some confusion, considerable confusion.

Mr. Maguire: I think counsel shows confusion.

Mr. Hillman: Will you let me finish?

Mr. Maguire: No, I am not when you go batting around in this absurd manner.

[fol. 3970] Mr. Hillman: Counsel originally made a flat statement with respect to 131. Mr. Torinus' question showed that could not be made as an unqualified statement. I am asking whether the same observations can be made with respect to 130, pertaining to the same points that Mr. Torinus just had asked questions on in connection with 131.

Exam. Dishman: Has he answered your question?

Mr. Hillman: Mr. Maguire has given an answer which apparently he wanted the witness to give. I didn't hear it from the witness.

Mr. Maguire: I am repeating an answer the witness gave.

Mr. Hillman: This is a different question.

Mr. Maguire: No, it isn't. It is the answer the witness gave on the record.

Exam. Dishman: Let us clear this up.

What is your answer as to Exhibit 130?

The Witness: Those are cars actually interchanged to these connections at the Twin Cities.

Exam. Dishman: They were actually interchanged?

The Witness: That is right, no assumption.

Exam. Dishman: No assumption like you made in 131.

By Mr. Hillman:

Q. The situation is different in that respect than in 131?

A. That is right.

Mr. Hillman: No further questions.

[fol. 3971] By Mr. Musenbrock:

Q. Along that line I am curious: You said the basis for these exhibits was freight claim settlements?

A. Freight claim?

Q. Not freight claim, interline settlements of the freight revenue department?

A. Yes.

Q. Would those interline settlements show the data that they were actually moved, or would it merely show that the interline settlements were made on Minnesota Transfer?

A. No, actual movements. Your junctions are reported on your interline settlements.

Q. They are?

A. Definitely.

Q. Are those operating?

A. No.

Q. Doesn't that come through the transportation department?

A An abstract is made from a waybill which shows the interchange point.

Q. Yes, sir. So that as to each one of these cars on Exhibit 130 you can testify that the interline settlements of the freight revenue department showed an actual interchange at Minnesota Transfer?

A. Definitely.

Mr. Musenbrock: O.K.

Exam. Dishman: Does that conclude the cross-examination?

[fol. 3972] Mr. Maguire: I have a little redirect here.

Exam. Dishman: All right.

Redirect examination.

By Mr. Maguire:

Q. On Exhibit 131—we got Exhibit 130 named down here—was this based on interline settlements, or was that based upon other revenue?

A. Statistical tabulations of station-to-station movements, 131.

Q. And 129. Let's get clear again what that would be.

A. Exhibit 129 was prepared from interline freight account settlements.

Q. Now, then, with regard to some of Mr. Boe's questioning about shipments to Southwestern Territory, did any of these or would any of these shipments move over routes over which joint through rates do not apply?

A. I would say—

Mr. Boe: I object to that question. This witness hasn't qualified as a rate expert. He testified specifically he didn't know anything about rates.

Mr. Maguire: I know he doesn't know anything about the detail. He said he is not a rate expert. He doesn't know about in what territories specific rates apply. I am talking about his accounts now.

Mr. Boe: He is not in the rate department. I object to the question.

[fol. 3973] Mr. Maguire: I think this witness is in the Milwaukee Railroad, he is a head of a department, and he would know generally as to the pattern of movements generally whether shipments of lumber would move on penalty rates.

Exam. Dishman: Are you familiar with the subject matter to which the question is directed?

The Witness: Yes.

Exam. Dishman: What is your answer?

The Witness: I would say these are, the majority of these movements—there may be one or two in there that moves on a combination rate, but I would say the majority are through rate traffic.

By Mr. Maguire:

Q. And so that as to the area, the destination area as to the majority of those shipments, at least, the question of whether cars would reach a certain destination territory would largely depend upon whether or not there were through rates to that territory; is that right?

A. That is right.

Q. Now, in this Exhibit No. 130, did you show any shipments delivered or interchanged at the Twin City terminals to the Minneapolis, Northfield & Southern, which acts as a bridge line with the Rock Island Lines and the Great Western Lines?

A. No, sir; I did not include it.

Q. And so far as traffic which the Rock Island participated in out of the Twin Cities, you do not have what [fol. 3974] they received, what we turned over to the Minneapolis, Northfield & Southern Railway, and they afterwards turned it over to the Rock Island?

A. They are not included in the statement.

Q. Whatever amount there may be?

A. That is right.

Mr. Maguire: That is all the redirect I have.

Mr. Boe: May I have a question in connection with Mr. Maguire's redirect?

Exam. Dishman: All right, Mr. Boe.

Recross examination.

By Mr. Boe:

Q. Are you employed in the freight traffic department of the Milwaukee Railroad?

A. Freight accounting department.

Q. The accounting department is wholly separate from the freight traffic department, is it not, on the Milwaukee Railroad?

A. It is.

Q. Do you have anything to do with the publication of rates by the Milwaukee Railroad?

A. No, sir.

Q. Do you know how the rates are published with respect to lumber from the Pacific Northwest to points in Western Trunk Line territory?

A. Vaguely so, yes. As I repeated, I am not a rate expert.

Q. Do you know how they are published from the Pacific [fol. 375] Northwest to Southwestern Freight Bureau territory?

A. Generally.

Q. Do you know how the groups are published in the tariff, so far as the rates are concerned?

A. Just a general knowledge; not a technical knowledge.

Q. Is there a grouping published as far as Southwestern Freight Bureau is concerned?

A. I can't say offhand.

Q. You don't know as to whether or not there is a grouping published as far as Southwestern territory is concerned?

A. No.

Q. Do you know whether there is a grouping published as far as Western Trunk Line territory is concerned?

A. Not definitely, no.

Q. Well, how indefinitely do you know anything about whether or not there is a grouping published with respect to—

A. I do not—

Mr. Maguire: Just a moment. That is about like saying how high is up.

Mr. Boe: The sum and substance of it, he knows nothing about rate publication, rate grouping, or anything of that sort.

Exam. Dishman: His testimony is in the record.

Mr. Maguire: I might comment, Mr. Examiner, that the testimony of Mr. Engel, our rate expert, has shown very definitely that there are no rates off the Union Pacific

[fol. 3976] or Southern Pacific origins, no rates available through Marengo on lumber.

Exam. Dishman: You mean previous testimony?

Mr. Maguire: It is in the record already, through Southwestern territory.

Mr. Boe: We are talking about this witness' knowledge.

Mr. Maguire: You were talking about the possibility of there being any cars into Southwestern territory shown on Exhibit 129.

Mr. Boe: Yes, and your redirect seems to develop along the lines of what this witness' knowledge was with respect to rates.

Mr. Maguire: I think we are fighting butterflies.

Exam. Dishman: His answer is in the record.

Anything else, Mr. Boe?

Mr. Boe: No, that is all.

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: We will take a short recess.

(Short recess.)

Exam. Dishman: The hearing will come to order, gentlemen.

Mr. Maguire: Mr. Hillman and I have reached an agreement here, and I think Mr. Hillman can probably state it.

Mr. Hillman: Yes. What I requested was for Mr. Nickels to show the number of cars under lumber and forest products in Exhibit 130 which had origins, or interchange points [fol. 3977] which were not included in the cars shown in Exhibit 131. Mr. Nickels has told me that to the best of his knowledge there is only one interchange point of that type included in 130, and that is interchange at Duluth via Canadian Pacific, and that the number of cars—

Mr. Torinus: S.P. & S.

Mr. Hillman: I was told Canadian National.

The Witness: Canadian Lines.

Mr. Hillman: Will you change that reference to Canadian Pacific to Canadian Lines and Mr. Nickels also informed me that the amount of interchange at Duluth was

not substantial, and on the basis of that information I withdraw my request for a detailed breakdown.

Mr. Maguire: May the record show, however, that it is agreed that Mr. Nickels—let us ask Mr. Nickels a question, and then we will get it in the record here from him as to whether it is substantial or not.

Would you like to ask that, or do you want me to?

Mr. Hillman: I was offering it in the way of a stipulation.

Mr. Maguire: I will stipulate to it. That is fair enough.

So far as the S. P. & S. is concerned, and the Great Northern and Southern Pacific, speaking through Mr. Rockwood, one of their counsel, Mr. Rockwood stated that he had already made his request and wasn't going to talk to me any further about it in spite of the fact that the Examiner [fol. 3978] suggested that we get together during a recess. I have no request of them at this time.

Mr. Rockwood: I made several requests in the record, Mr. Examiner. I will not undertake to review the subject on which I did not keep notes. I have no assurance that if I attempted to state my requests again they would be complete.

My requests stand in the record. Mr. Maguire said at the time they were made that he would not furnish the material, so there was no occasion to talk to Mr. Maguire any more.

Mr. Maguire: At that time when that remark was made the Examiner suggested that we get together to see just what was wanted, Mr. Examiner, and what we could furnish, and I agreed to that, and I still agree to it. If counsel wants to sulk in his tent like Achilles, that is his own lookout.

Mr. Rockwood: Very picturesque language, but I am not going to attempt to recall the specific requests I made in the record. I could not make them complete at this time without reference to the record, which I will not see until this evening.

Exam. Dishman: How about the other gentlemen, Mr. Musenbrock made a request, did you not?

Mr. Musenbrock: Mr. Maguire and I came to an agreement, and as I understand the witness Nickels will be able

to prepare or have some data on the request during today; is that correct, Mr. Nickels?

The Witness: Yes. As far as the M. & St. L. is concerned, [fol. 3979] I think I can.

Mr. Musenbrock: The request was only directed towards an M. & St. L. breakdown.

Mr. Maguire: That was a breakdown directed towards traffic received by the Milwaukee and received by its connections.

Mr. Musenbrock: Traffic received by the Milwaukee or received from connections.

Mr. Maguire: The breakdown is to be one classification, traffic originated by the Milwaukee, and the second classification is that received from connections.

Mr. Musenbrock: Yes, sir.

Mr. Maguire: We shall be glad to furnish that before the hearing is over.

Exam. Dishman: Mr. Boe.

Mr. Boe: Mr. Examiner, I discussed the situation with respect to Southwestern area, in connection with which I have asked the witness some questions, and I understand they do not have the freight bills, or the waybills present at this time for examination. I am not asking that they be produced, but I am not pressing my request for production of the waybills. Seems as if the exhibit, and the witness' testimony, is general in nature, and I won't pursue it beyond that point.

Exam. Dishman: Is there anything more of this witness at this time?

Mr. Hillman: Mr. Examiner, could I just say that in [fol. 3980] order to shorten the procedure, I stated to Mr. Maguire that I was undertaking to stipulate. I want to make it clear that I was undertaking to stipulate that Mr. Nickels would have made these statements if he had been asked. I am not in position to stipulate, of course, as to the facts, themselves. I wanted that to be clear.

Exam. Dishman: That is understood.

Mr. Maguire: Mr. Nickels would testify to that effect if the question were asked him. I think we could probably have asked him the question a lot faster.

Exam. Dishman: Were there any other requests?

Did you make a request, Mr. James?

Mr. James: I have no request.

Exam. Dishman: Well, the witness is excused temporarily.

(Witness excused.)

Mr. Maguire: We will bring Mr. Nickels back later to give the data requested by Mr. Musenbrock.

Exam. Dishman: We will now recess for lunch, then, until 1:30.

(Whereupon, at 12:02 p. m., a recess was taken until 1:30 p. m. of the same day.)

[fol. 3981] Afternoon Session

1:30 P. M.

Exam. Dishman: The hearing will be resumed, gentlemen.

Mr. Maguire: Mr. Examiner, Mr. Nickels during the noon hour has checked over his papers and has obtained the data requested by Mr. Musenbrock with respect to shipments delivered to the M. & St. L., as shown in Exhibit 130. The request was that these numbers for each month be divided as between shipments originating on the lines of the Milwaukee and those received from connections.

I suggest you read them slowly, Mr. Nickels, so that we can copy them on the exhibit. Will you first read pairs of figures for each of those months, the first figure being those shipments originating on the Milwaukee and the second figure for each month being those received from connections?

Exam. Dishman: Which exhibit is that, again?

Mr. Maguire: Exhibit 130.

W. H. NICKELS was recalled and testified as follows:

Direct examination.

By Mr. Maguire:

Q. Let us start with lumber and forest products for February, May, August, and November of 1953.

A. Lumber and forest products under competitive under February, 37, and 16 received from connections;

For the month of May, 36 originating, 16 received from connections;

[fol. 3982] August, 62 originating, 10 received from connections;

November, 44 originating, 27 received from connections.

Q. Do you wish to finish up with lumber and competitive, or go down with the other commodities?

A. I will take lumber non-competitive.

For the month of February, three cars originating, two received from connections;

May, six cars originating, none received from connections;

August, 14 cars originating, five received from connections;

November, two cars originating, one received from connections.

On competitive, all other commodities, for the month of February, 13 originating, five received from connections;

For the month of May, 15 originating, none received from connections;

August, 47 originating, none received from connections;

November, 14 originating, five received from connections.

And on non-competitive, all other commodities, February, there were no cars;

May, there were no cars;

August, one originating, one received from connections;

November, no cars.

Mr. Maguire: Have you any questions on that?

Mr. Musenbrock: I do not question the figures, but may I ask a few questions concerning those figures, Mr. Exam-[fol. 3983] iner, just a very few?

Exam. Dishman: All right.

Cross examination.

By Mr. Musenbrock:

Q. When you speak of these cars, Mr. Nickels, as being turned over to the M. & St. L., either originating or received from connections, that does not mean that these cars were finally delivered to a point on the M. & St. L., does it?

A. Yes, sir.

Q. Might not in some cases the M. & St. L. have been a bridge carrier out of the Minnesota Transfer and perhaps delivered, for instance, to the Illinois Central at Albert Lea?

A. Yes, it could contain those.

Q. So that your answer would be that—

A. It doesn't mean all of these cars terminated on M. & St. L.

Mr. Musenbrock: That is all.

Mr. Maguire: That is all.

Exam. Dishman: Is it thought that Mr. Nickels will be recalled to supply further data or does this complete it?

Mr. Maguire: This completes all that has been requested following the conference, as the Examiner suggested.

The Presiding Officer: Do you desire to offer the exhibits in evidence.

OFFERS IN EVIDENCE

Mr. Maguire: I will offer Mr. Nickels' Exhibits 129, 130, and 131.

[fol. 3984] Exam. Dishman: Any objection?

Mr. Rockwood: I have no objection.

Exam. Dishman: They are received in evidence, and the witness is excused.

(Complainant's Exhibits Nos. 129, 130, and 131, Witness Nickels, were received in evidence.)

(Witness excused.)

Mr. Maguire: I will now submit Mr. Crippen for cross-examination.

C. E. CRIPPEN was recalled and testified as follows:

Cross examination.

By Mr. Rockwood:

Q. Mr. Crippen, you testified yesterday with respect to the possibility of S. P. & S., on eastbound movements into Spokane, stopping at Erie Street to drop the Milwaukee and other northern lines cars at the Erie Street yard, rather than taking them into Yardley, the Northern Pacific Yard at Yardley.

You pointed out that if they were taken to Yardley they had to be moved back downtown from Yardley to Erie by Northern Pacific crews.

You realize, do you not, that all terminal services for the S. P. & S. within the City of Spokane, except possibly local cars which may be spotted by the Great Northern—is handled for the S. P. & S. by the Northern Pacific?

[fol. 3985] A. All terminal services except those contractual rights which the S. P. & S. has and which includes setting out and picking up at Erie Street Yard.

Q. That is your conclusion from reading the contract?

A. That is from the testimony of Superintendent Slorah and a review of the contract.

Q. Well, I suggest the contract will speak for itself. As to the physical handling, it is done by the Northern Pacific, is it not, at the present time?

A. As far as make-up of trains and delivery of cars in interchange, or the spotting of cars to industries, it is performed by the Northern Pacific.

Q. You understand that the Northern Pacific moves S. P. & S. cars to be interchanged with the Milwaukee from Yardley to Erie?

A. Yes.

Q. Then the Northern Pacific delivers the cars, those cars, to the Milwaukee interchange?

A. That is right.

Q. And on westbound movements it has been testified that the S. P. & S. shuttle train will stop at Erie Street and pick up westbound cars?

A. That is right.

Q. Which has been placed there by the Northern Pacific; is that right?

[fol. 3986] A. That is right.

Q. Now, on an eastbound movement, if the S. P. & S. shuttle train were to stop at Erie, at what point would it depart from a main line of the Northern Pacific to move into Erie Street yard?

A. The train would stop west of the home signal on the eastbound main, at the Union Pacific, Milwaukee crossing, and it would cut off the cars to be set out, pull up over the interlocking, and shove back through the interlocking into the Erie Street yard.

Q. That track that you speak of, where it would cross over, is east of the east end of Erie Street, is it not?

A. Yes.

Q. And is very close to the interlocking plant of the Northern Pacific, Union Pacific, Milwaukee crossing?

A. Yes.

Q. And during that operation it would necessarily block the crossing, would it not?

A. Yes, as long as it was lined up, as the plant was lined up for the crossover move there would be no conflicting movements.

Q. No conflicting movement, either on the U.P., Milwaukee track, or on the Northern Pacific main line tracks; is that right?

A. That is right.

Q. So that everything would have to stop for the opera-

[fol. 3987] tion by that S. P. & S. shuttle of the maneuver of dropping the cars into Erie Street?

A. Yes, sir; there could be only one movement through the interlocking limits.

Q. How long are those S. P. & S. shuttle trains, do you know?

A. They vary a good deal in length, anywhere from 30 cars possibly to a hundred cars.

Q. And all of the time they are performing that would the interlocking plant be blocked to opposing movements?

A. Not necessarily. They could make their one move across the interlocking, then it can be released for some other movement. They could make another movement through the interlocking and the interlocking again could be released for another movement, or the entire movement could be made without any other conflicting movements.

Q. That would depend on the S. P. & S. train?

A. No, depending on the size which has been testified to as varyingly exceeding three or four cars.

Q. Suppose that set out were 20 cars.

A. The same conditions would prevail. The only difference being that it would take a few minutes longer to make the movements.

Q. Suppose that there was an important movement of a passenger train for a through freight over the Northern Pacific main line track eastbound or westbound. Would [fol. 3988] this maneuver that you talk about prevent the passage of that train during the period that the S. P. & S. shuttle train was operating into that yard?

A. There are no regularly scheduled passenger movements at the time testified, around 6 p. m. However, if there happened to be a passenger movement, or a freight movement, one or the other would have to be given preference, either the S. P. & S. set out or the passenger train, or the other train.

Q. And that is true also if there is a passenger train or movement on the Milwaukee, U.P. track?

A. One—

Q. Controlled by the same interlocking plant?

A. Yes, one or the other would have to be given preference.

Q. That would block, as I understand it, both of the main line tracks, the eastbound and westbound on the Northern Pacific?

A. During the period of the crossover movement, which is one element of the set out operation, then both tracks, eastbound and westbound main tracks of the Northern Pacific would be blocked to through movement.

Q. In that operation would the entire train handled by the S. P. & S. shuttle be moved into Erie Street yard in order to make the drop cut off?

A. No, only the cars to be set out, one, two, three, whatever it happened to be.

Q. If they were that end of the train?

[fol. 3989] A. That is right.

Q. They usually are, do you know?

A. The testimony previously given is the make-up departing Scribner at the present time is that the cars for foreign lines are next to the caboose leaving Scribner. That make-up would require reversing for more convenient set out at Erie Street, if that were done.

Q. Well, suppose those cars were put at the head end of the train at Erie, in anticipation of the movement into Erie Street and the rest of the S. P. & S. shuttle would remain on one of the main lines of the Northern Pacific during this operation, would it not?

A. Yes.

Q. Would the presence of that shuttle on the main line of the Northern Pacific block any movements other than a Northern Pacific main line movement on that particular track?

A. No, they would not. They would occupy the eastward main track, west of the interlocking, and in that position would not interfere with the movements on any other tracks.

Q. If that drop-off were made, and then the locomotive came back to the main line track to hook up with the shuttle for movement onto Yardley, would any time be consumed in pumping up the air in the train?

A. There would be some time consumed, yes. The brakes would be set on the train, and as soon as the engine was [fol. 3990] coupled and the air coupled, it would be necessary to release the brakes and that would consume some time, depending on the number of cars.

Q. In the train?

A. Yes.

Q. Remaining in the shuttle?

A. That is right.

Q. And if we on a particular day had a substantial movement of 100 cars that would take quite a little while, wouldn't it?

A. It probably would take in the neighborhood of five minutes.

Q. To check all the brakes and then pump it up and be on their way?

A. To release the brakes and proceed, not make a terminal brake test, which would not be required under this circumstance.

Q. You say that there are no passenger train movements at the time of the arrival of the S. P. & S. train. What is the number of that S. P. & S. train, do you recall?

A. It was referred to as No. 276.

Q. You are familiar with the fact that the S. P. & S. runs a good many extras in a day's time, may run as many as three or four or five trains into Yardley?

A. The testimony was one to four trains, and from my own observation I have seen as many as four trains in one day operating into Hillyard. I didn't observe that many operations into Yardley, but I believe it might be true.

Q. As a general rule, S. P. & S. trains coming into Scrib-
[fol. 3991] ner carry both Yardley and Hillyard cars, or do you know?

A. I can't answer that as a general rule.

Q. So with extras making up as many as four trains a day between Scribner and Yardley, it well might be that they would be in that vicinity of Erie Street at the time a passenger train service over the U.P., Milwaukee, or Northern Pacific came up; isn't that true?

A. My testimony pertained to the operation of the formal connection for first No. 276, which it has been testified arrives Yardley around 6 or 6:30 p. m., and when I testified there were no scheduled passenger trains during that period in the vicinity of the Northern Pacific, U.P., Milwaukee crossing, it pertains to the first section of 276, which has been testified to. The extras could be at a time when there were passenger trains scheduled.

Q. And if they—they might carry Milwaukee cars or Union Pacific cars as well as the extras?

A. Yes, but the ones we were interested in and were suggesting as for Erie Street set out, is the first section arriving at—the first section of No. 276 arriving around 6 or 6:30 with a view to getting the cars over to the inter-

change in time to connect with our current connection out of Spokane, around 11 or 11:30 in the evening.

Q. The fact remains that there may be Milwaukee cars in other trains than 276, and if that is true, and if they [fol. 3992] were dropped off at Erie, it would tend to interfere with passenger train movement, depending, of course, on the time of the arrival of the extras?

A. No, I would not say it would interfere with passenger movement. I would say that the dispatcher probably would handle his trains without permitting the shuttle to interfere with the passenger trains.

Q. He would delay the shuttle rather than passenger trains?

A. He would give preference to passenger trains.

Q. That would, of course, delay the arrival of the shuttle in Yardley?

A. Their object is a connection with Northern Pacific 602, as I recall the testimony, which is due out at 9:15 p. m., and it was the first section of No. 276 which was protecting that connection.

Q. Now, extras of the S. P. & S. connect with extras of the Northern Pacific, do they not, so that the time of arrival at Yardley will determine to a extent the time that the Northern Pacific extras can get out of Yardley; isn't that true?

A. No, but I would say that the time of arrival at Yardley probably will govern the time of departure of the cars off the S. P. & S. I think the Northern Pacific departures will be run at the convenience of the Northern Pacific.

Q. Undoubtedly true, but don't you know that the S. P. & S. dispatchers endeavor to coordinate the movement of [fol. 3993] S. P. & S. trains to meet the schedule of the Northern Pacific?

A. Yes, and as I understand it that pertains to No. 602, not extra trains which are not scheduled trains.

Q. Are you sure of that? Is there no attempt to coordinate with Northern Pacific extras?

A. My understanding is that the coordination of schedules contemplates scheduled trains, extra trains not being scheduled trains I would not understand that there would be coordination, lacking any schedule.

Q. Could there not be coordination by the activities of the dispatchers, even though there is no coordination in schedules?

A. There could be a cooperative effort; yes, sir.

Q. And doesn't the S. P. & S. do that as far as you know, S. P. & S. dispatchers?

A. I assume that would be the case, but I do not know.

Q. Now, if there was an interference with some other movement at that interlocking plant, you suggested that the S. P. & S. could just go into a siding somewhere west of Erie Street, to allow the free movement on the main line. Where is the siding that you have in mind?

A. Marshall Junction.

Q. How far is Marshall Junction from Erie Street?

A. I can't answer precisely, but I would estimate about 8.7 miles.

Q. I think that is about right. I was going to guess nine [fol. 3994] miles.

In other words, hold the train at Marshall Junction on a siding at Marshall Junction until the main line of the Northern Pacific was cleared?

A. If he had a movement coming on the Northern Pacific, which the dispatcher desired to give preference over the S. P. & S. shuttle, I would assume that he probably would hold the shuttle at Marshall Junction and give the preferred movement preference.

Q. Don't you think the manifest train of the Northern Pacific westbound would get preference over the S. P. & S. shuttle?

A. I do, if there was reason to believe that the shuttle might delay the Northern Pacific manifest train between Marshall and Yardley; that manifest train would be given preference.

Q. And passenger trains would likewise be given preference?

A. Yes, sir.

Q. The North Coast would go through in spite of the S. P. & S. shuttle?

A. The North Coast is not scheduled at the time of the shuttle connecting with the first 276 has been testified as operating.

Q. There might be an S. P. & S. extra which would have to wait down there at Marshall Junction to let the North Coast Limited go through?

A. That would be possible, yes.

Q. Is No. 276 of the S. P. & S., as far as you know, run in sections not designated as extras?

[fol. 3995] A. Yes, in the testimony of Trainmaster Croffut and the testimony of superintendent—the other assistant general superintendent of transportation, Bassett, they were referred to as first, second, and third, and fourth 276, and they are similarly referred to by the Northern Pacific and the Great Northern operating personnel at Spokane.

Q. And the Northern Pacific, out of Yardley, what is their scheduled train out of there? What is its number?

A. 402, as I recall it.

Wait a minute. You said Northern Pacific? 602.

Q. And that runs in sections, does it not?

A. Yes.

Q. There is also Northern Pacific 612, that is another scheduled train, is it not?

A. That is right.

Q. And there are through trains of the Northern Pacific departing out of Yardley?

A. Yes.

Q. What is the Great Northern manifest number eastbound?

A. 402, as I recall it.

Q. That runs in several sections?

A. Yes.

Q. How many main line trains eastbound through Plummer does the Milwaukee operate each day?

A. We have a regularly scheduled through time freight [fol. 3996] No. 264. We have a regularly scheduled train No. 64—264 operates seven days a week, 64 operates seven days a week, as such, or as an extra, and then we will operate on the average about five eastbound extra trains per day on the main line through Plummer Junction.

Q. In other words, on the average you operate five main line trains eastbound through Plummer Junction to Minnesota Transfer?

A. No. I think my testimony was not clear.

During a 24-hour period we will have No. 264, a scheduled time freight, No. 64, a connection from Spokane, and one extra on the average of five days per week.

Q. So that—

COLLOQUY BETWEEN EXAMINER AND COUNSEL

Mr. Maguire: Just before we go any further on this, if the Examiner please, I object to any cross-examination upon the question of the Milwaukee main line service because this witness did not touch upon that in his direct testimony at all. His comments were solely in rebuttal of testimony of the Northern Pacific, as to interchange at Spokane, and the main line operations of the Milwaukee are not or were not mentioned on direct testimony at all by this witness, and that is improper cross-examination.

Mr. Rockwood: If I am permitted to do so, all this testimony relates to the handling of cars through the Spokane terminal into main line trains for movement eastbound at [fol. 3997] Plummer Junction. That is all I am shooting at.

Mr. Maguire: That is not the testimony. I beg to differ with counsel on that.

Mr. Rockwood: I was talking about my cross-examination.

Mr. Maguire: That is what I am getting at. It is beyond the scope of the direct, and is objected to for that reason.

Mr. Rockwood: I want to find out, if the Examiner please, the comparative time—I am telling it frankly—of getting an S. P. & S. car through the Spokane terminals and out in a manifest train on the Great Northern and Northern Pacific, and the time of handling an S. P. & S. car through the Spokane terminals and out in a manifest train on the Milwaukee. That is what I am shooting at.

Mr. Maguire: That is what I assumed, and that is the reason I object to it because it is not proper cross-examination of this witness.

Exam. Dishman: Wherein do you think that is proper cross-examination?

Mr. Rockwood: It is material. Mr. Maguire brought this witness partly through the terminal operation and

partly through the handling into a manifest train. I just want to get the car the rest of the way.

Mr. Maguire: I know that.

Mr. Rockwood: Just a minute, please. Mr. Maguire, I believe, is not permitted to foreclose me from finding out [fol. 3998] what the Milwaukee does in the handling of cars eastbound and foreclose me from an attempting to show the comparative service of the Great Northern and Northern Pacific and S. P. & S. through the Spokane terminals, and the service of the Milwaukee through the Spokane terminals.

Mr. Maguire: Mr. Examiner, if Mr. Rockwood ever had that right, that right was finished at the time of closing of the direct testimony in this case. At least it was certainly foreclosed by the time the defendants closed their case.

Now, this witness is called back here, in rebuttal, for a specific purpose. His testimony—and if there is anything to the rule of improper cross-examination I think counsel's very frank and honest statement of his intention here shows that he has attempted to go far beyond the scope of the direct examination.

The purpose of this direct examination was simply to show that the handling through Spokane by the S. P. & S. and Northern Pacific could be facilitated in opposition to the views expressed by witnesses Croffut and Slofah who appeared for the defendants. Now, then, he can't back into this case and bring out other matters which might have been—assuming they might have been relevant at the time, but that period has been closed in this case. He is here for one purpose, and the cross-examination should be limited under the rules of evidence, and under the most liberal interpretation of the rules of evidence to the matters [fol. 3999] covered on direct examination by the witness.

He is opening entirely new subject which is not timely and he is foreclosed at this time.

Mr. Rockwood: I am not going beyond Plummer Junction.

Exam. Dishman: I will sustain the objection. We want to stay within the scope of the direct.

Mr. Rockwood: Am I to understand the Examiner's ruling, I am not permitted to cross-examine, to show the time of the Milwaukee car through into the terminal, into a manifest train, in answer to rebuttal testimony, which answered our witnesses who showed the time of movement of S. P. & S. cars into through trains of the Great Northern and Northern Pacific?

Mr. Maguire: I beg your pardon. I think counsel has not accurately stated it. We are not rebutting the question of the time that it takes an S. P. & S. car to go from the S. P. & S. into a train of the Great Northern or Northern Pacific. We were rebutting the question of the time between the arrival of those cars on the S. P. & S. at Spokane and the placement upon the interchange track of the Milwaukee. There was no reference whatever made or no comparisons made as to the length of time it takes to put them into the G.N. or N.P. trains, nothing whatever on direct.

Mr. Rockwood: Answering, that is making comparison between the two operations, and, of course, that is what rebuttal endeavors to show. I am surprised that Mr. Maguire—

[fol. 4000] Exam. Dishman: How much more did you have along this line? We want to stay within—

Mr. Rockwood: Not too much.

Exam. Dishman: We want to stay within the scope of the direct, of course.

Mr. Maguire: Could I be heard a moment, Mr. Examiner?

Exam. Dishman: Yes.

Mr. Maguire: Mr. Examiner, I might say your ruling was absolutely correct in sustaining the objection. It doesn't make any difference as to how far the rules of evidence or the rules of examination are violated. The question is whether they are violated. It is just like the proverbial camel who wanted to stick his head inside the tent. If he goes a little bit out of the reservation, he can go all the way out.

Mr. Rockwood: Achilles in the tent.

Mr. Maguire: My metaphors are a little mixed; I will admit. I don't think there is anything like a little bit of a violation of procedure. It is a violation or it isn't, and

the quantity doesn't make any difference. I maintain the Examiner's ruling was correct in sustaining the objection.

Mr. Rockwood: The only possible purpose of this rebuttal is to make a comparison of the handling of an SP&S car interchange with the Milwaukee, through the Spokane terminals, and a comparison of a handling of an SP&S car interchange of the Great Northern and Northern Pacific through the Spokane terminals.

[fol. 4001] Mr. Maguire: If you want to know the object, I will state what it was, and that is that witness Slorah testified and gave the impression that the only cars which were interchanged with the Milwaukee came in on this train which arrives in Spokane from 6 to 6:30, and that they can not be placed upon the Milwaukee interchange until from 1 to 3 a. m. the following—1 to 3 a. m.—which would miss the connection for that night, and thereby hold the car off for 24 hours.

Mr. Crippen's testimony was to show two things: First, was that it would be feasible for them to place the cars upon the interchange at an earlier hour than the following one to three a. m., solely that; and the second was to show where such action had been taken—such results had been accomplished, and in other cases where there were delays, other cases of cars where if Mr. Crippen's suggested operation, suggested operation had been followed, they would have been on the interchange in time.

That was all to meet that one statement of Mr. Slorah. We have made no comparisons whatsoever, do not intend to make comparisons between the length of time it takes an SP&S to go through the terminal and out on the Northern Pacific and the time it would take the same car to go through the terminal and go out on the Milwaukee.

Mr. Rockwood: The only purpose that rebuttal could possibly have had was to show that the movement through [fol. 4002] the Spokane terminals in interchange with the Milwaukee could be accelerated. I want to show what the consequences of that would be on the entire movement, through the terminals.

Mr. Maguire: I still submit that the Examiner's ruling should stand.

Exam. Dishman: Well, in the interest of getting the complete record, I don't know how relevant this is, but as a result of these further exchanges, I will permit the witness to answer.

Mr. Rockwood: I think I can pick up.

By Mr. Rockwood:

Q. With 7 movements a day of your train—7 movements a week of your Train No. 264—is that it?

A. Yes.

Q. —plus 5 extras during the week, that would make 12 movements in through trains through to Minnesota Transfer, through Plummer Junction; that is right, isn't it?

A. Yes.

Q. Now, Train 64, that you referred to, operates as a local train from Spokane to St. Mary's, Idaho?

A. Well, you have used the term "manifest", and in order to get my understanding of the term "manifest", as it applies, trains departing Spokane are manifested on No. 64, and make a positive connection with No. 264 at Plummer junction.

No. 64 performs local service intermediate, Spokane to St. Mary's, but secondary to maintaining a connection with No. 264 at Plummer Junction.

[fol. 4003] Q. Well now, what is the time—the time of departure of 64 out of Spokane is about 11:30 in the evening?

A. About 11:30 p. m.

Q. What time does that train reach Plummer Junction?

A. It connects with No. 264 at Plummer Junction at 2:30 a. m.

Q. What is the time of departure of 264 out of Plummer Junction?

Mr. Maguire: Just a moment.

Now, Mr. Examiner, this is just illustrative of what I was warning the Examiner about, that you give him one step and he goes beyond. Mr. Rockwood said a few moments ago he was not going beyond Plummer Junction. Now he is, and he has taken his inch and he will take his mile.

Mr. Rockwood: I am not interested in the time it leaves Plummer Junction.

Exam. Dishman: You are not going beyond?
Mr. Rockwood: No.

By Mr. Rockwood:

Q. What time does 264 leave Plummer Junction?
A. About 2:30 a. m.

Mr. Maguire: I am objecting to all of this.

By Mr. Rockwood:

Q. Plummer Junction is how far from Spokane?
A. About forty miles.

Mr. Rockwood: I am not breaking faith, but how far is St. Mary's from Spokane?
Mr. Maguire: That is objected to as going beyond even the scope of what counsel said he was going to. I object. [fol. 4004] He is just going inch-by-inch.
Exam. Dishman: The record would show the distance, wouldn't it?
Mr. Rockwood: I don't know.
Mr. Maguire: I object, it is going beyond Plummer Junction.
Exam. Dishman: Isn't that already in the record?

By Mr. Rockwood:

Q. You went through rather an extensive description of the sources of your data, which you discussed in connection with these waybills, showing movements of SP&S cars interchanged with the Milwaukee through, into Train 64, in Spokane. From what record did you obtain the information as to the time of the departure of individual cars from Spokane?
A. The train lists were checked and departure of the train coordinated against the dispatcher's train sheet.
Q. The train list, which included the list of car numbers in each train?
A. That is right.
Q. Is that sometimes called the "wheel" report?
A. There are two documents. One we normally refer to as the train list, and one we refer to as the wheel report. Both of them list the car numbers.

Q. It was from that source that you obtained the information?

A. Yes.

Q. Did you do that personally?

A. Yes, sir.

[fol. 4005] Q. Checked the train sheet and the train report?

A. Yes, sir.

Q. All right.

The time of interchange at the NP-Milwaukee interchange in Spokane was determined from these interchange reports, which you handed to me yesterday?

A. Yes, sir.

Q. Are those originals or copies?

A. They are the Milwaukee Road's original copies of the SP&S offering in interchange.

Q. Who prepares this, the SP&S or Milwaukee?

A. The SP&S prepares the interchange for cars moving SP&S to Milwaukee.

Q. How does the SP&S obtain the time of arrival on Milwaukee tracks?

A. The SP&S supplies that information.

Q. How does SP&S have that information if they don't do the switching?

A. I say the SP&S. When I say that, I refer to their agent, or their designated representative, and it is they who supply the basic information in the name of the SP&S.

Q. Is that a Northern Pacific employee, do you know?

A. To the best of my knowledge, it would be a Northern Pacific employee.

Q. And it is from that source that you obtained the in-

[fol. 4006] terchange time?

A. Yes, sir.

Q. The other material that you read into the record of the time of arrival, or rather the date of arrival of a particular car at Yardley, the time of the receipt by the Milwaukee of the waybill—those two items were obtained from stamps on the waybills?

A. My recollection of my testimony was that the Northern Pacific, SP&S stamp on the waybill indicated the car passed Spokane on certain dates. That information was

taken from a stamp on the waybill. The time of receipt of the waybill by the Milwaukee was shown by a stamp on the waybill.

Q. Are these photostats that you handed to me complete copies of the waybills as they appear today?

A. If I understand your question correctly, it is a true photostatic copy of the front of the waybill, and of the back of the waybill, if there was information on the back.

Q. And as they now exist as original records of the Milwaukee?

A. I presume there have been some entries on the waybills since the photostats were taken. They were taken at Spokane at the time the waybills were delivered to the Milwaukee, and the original waybill has then accompanied the car, and I presume there are additional indications on the waybills now.

Q. Yes, so that these copies we have are not copies of the waybills bearing all notations on the waybills, as they are [fol. 4007] shown today?

A. They are copies of the waybills as they existed at the time the cars were delivered—at the time the waybills were delivered to the Milwaukee at Spokane.

Q. And the original waybills in your record today bear stamps of many terminals between Spokane and the destination of the car, the ultimate destination of the car?

A. I don't know how many, but they probably have additional stamps to those which were on at the time the bills were photostated.

Q. Well, in fact, between Spokane and Minneapolis, how many stamps would be put on the waybill by the Milwaukee? Would they put them on at each terminal?

A. No. We don't. On a through train, for through movement, where there is a minimum of switching and a minimum of work on the waybill, the next indication probably would be Minneapolis.

Q. And then if you interchange there, of course, it would bear the stamps of the road with which you interchange?

A. Yes.

Q. So that these waybills were photostated contemporaneously with the movement last September and October, and have been in your possession ever since?

A. The photostatic negatives have been in the possession of the railroad during that period.

Q. When did they first come into your possession?

[fol. 4008] A. Well, I would guess ten days ago.

Q. Had you examined the original waybills before that time?

A. I saw some of the original waybills.

Q. Have you examined all of the original waybills of which these are photostatic copies, which you handed to me?

A. I did not examine all of the original waybills. The photostats were taken concurrently with the use of the waybill, and the waybills accompanied the car. The cars nor the waybills were not delayed for inspection, and this was a process going on 24 hours a day over a 30-day period. I did not question it.

Q. You have had no occasion since that time to compare these photostats with the original waybills?

A. No, sir.

Q. Are these true copies of waybills that you discussed?

A. Yes, sir. They are photostatic copies of the original waybills.

Q. I hand you as an example the Oregon Electric waybill No. 6644, covering SP&S No. 34005, with a destination, Lake Andes, South Dakota, and origin, Eugene, Oregon, which you discussed at page 3791 of the record.

That, if you please, is the one which you described passed Spokane on September 12th, waybill received by the Milwaukee on September 12th, interchanged, I believe, on September 22nd, and got out of there on September 22nd, and [fol. 4009] you called attention to the fact that the stamps on the back of the reverse of that waybill showed stamp at Willbridge, Oregon, on September 15th; at Vancouver, Washington, September 16th, and a stamp received at Yardley on September 17.

When you did that, did you notice the back or front of different cars?

A. I did not observe that, but my interpretation of the markings on the back of the bill, insofar as the markings from carbon sheets were concerned was that that was the result of an error in placing the carbon; that the photostat is a true copy—

Q. Of something—

A. —of the reverse of the bill involved, and that it would not change any of my testimony pertaining to the waybill.

Q. Despite the fact that the reverse side of this waybill shows that it relates to Canadian Pacific Car No. 221862, box, destined to Renville, Minnesota, shipped by Olympia Lumber Company at Eugene, Oregon, and that the front side of this is an SP&S flat car, shipped by E. S. Gainer Lumber Company from Eugene, Oregon, you would not infer that there was an error in putting together those two sheets of paper?

Mr. Maguire: Before you answer; Mr. Examiner, I think it should only have been fair of counsel to have stated he has read off these figures from the so-called back of the waybill, but these figures and words that appear on here are all of them reversed. They are not printed. It is a [fol. 4010] mirror print, you might say, of something or other.

You didn't mention that, did you?

Mr. Rockwood: No, of course. The paper was so thin that the front of the waybill showed on the back when you took the picture of the back of that sheet.

Mr. Maguire: I don't think that can be done, because it doesn't show on another of those waybills.

Mr. Rockwood: I will show you some more, it shows the same way.

Mr. Maguire: It does show that this is a reverse. This printing he read from the back of the waybill is in reverse.

You agree?

Mr. Rockwood: Yes.

Exam. Dishman: Isn't there enough in the record regarding that?

By Mr. Rockwood:

Q. Do you still think that you gave a correct statement of the movement of Northern Pacific Car 34005?

A. I did not testify with reference to the movement of the car, as I recall it. I testified that this was a waybill for SP&S 34005; that the waybill was received by the

Milwaukee at Spokane on September 12th; that the car was received at Spokane on September 22nd, and that there were stamps on the reverse side which indicated other information.

I don't know where the car was.

Q. No, but you left the impression in the record that that [fol. 4011] car had that handling through Willbridge, Vancouver, and Spokane, did you not?

Mr. Maguire: Just a minute, Mr. Crippen.

Rather than beat this subject to death, I am perfectly willing to stipulate that the only testimony with respect to that car that need be considered is the fact that the waybill was received by us on a certain date; that the car was received ten days later, as testified by Mr. Crippen.

Mr. Rockwood: That is not the fact.

Mr. Maguire: As to intervening moves, we are not interested in those anyway.

Mr. Rockwood: We do not have the movement of that car except the waybill was received by the Milwaukee on September 12 because we do not have the reverse side of that waybill.

Mr. Maguire: Just a moment.

Exam. Dishman: You made an offer of stipulation. You don't agree?

Mr. Maguire: Also that the witness testified from the interchange reports and from the train reports and to when that car was actually physically received by us. The stamp on the face of the waybill showing when the waybill was received—isn't that on there, Mr. Crippen?

The Witness: Yes.

Mr. Maguire: It was shown there as on October 12th. The interchange reports prepared by the SP&S or its [fol. 4012] agents shows that the car itself was received by us ten days later, on October 22. Now, where it went in the meantime, we don't care.

Exam. Dishman: You testified to that yesterday, did you not?

The Witness: Yes.

Exam. Dishman: The time of the receipt of the shipment?

The Witness: Yes. I did.

By Mr. Rockwood:

Q. I show you another photostatic copy which, on the face of it, relates to CB Box 221862, which is a shipment, Oregon Electric Waybill No. 6783, which you did not discuss in your testimony yesterday. That is a shipment from Eugene, Oregon, to Renville, Minnesota. Will you please look at that and see if the face of this exhibit, or this photostat that I showed you last, is not the face of the waybill, the reverse of which you have attached to SP&S 34005?

A. My answer is no, for the reason that the face of the waybill covering CP 221862 is on a printed form, which is headed "600, Oregon Electric Railway Company", and all of the typewritten material on the face of it reads straight up. The photostat on the reverse of the waybill for SP&S 34005 does not have the printed information, which shows on the face of the original waybill, and the letters are in the reverse direction.

Q. Will you do this for us, Mr. Crippen? Will you take the face of this waybill, which has the printing, "CP 221862" and hold it up to the light with the reverse, where you say the printing is reversed, and see if the typing doesn't match [fol. 4013] exactly all the way through?

The typing, not the printing.

Mr. Maguire: Mr. Examiner, I may as well make the further comment that counsel is belaboring something to which we have said that we have attached no importance whatever, in our testimony as to the movements of this car.

As to the intervening stamps, we are not at all interested in them, and they have no bearing whatever upon the witness' testimony, but if he wishes to pursue it, I think probably the shortest way is to let him play with it a little while.

Mr. Rockwood: Mr. Examiner, it does not require an expert to determine the fact that these waybills in several instances have been mixed up so that the front and the back aren't—which are attached together here—are not copies of the front and back of the same piece of paper. They just got them mixed up in the preparation of the exhibit.

Exam. Dishman: Couldn't we shorten that up. Do you agree to that? Do you agree to that?

Mr. Maguire: No. I don't admit all of these are mixed

up. I am going to say that if there are any waybills where there is an apparent mix-up, where we have placed any reliance whatever for any of the basic data—that is, the receipt of the waybill, the arrival of the car on the SP&S at Spokane and the delivery of the car physically to the Milwaukee, is involved, of course, that won't be.

[fol. 4014] It only will be the date the waybill was received by the Milwaukee, date the car arrived at Spokane. Wherever anything of that shows on the back of a waybill which has apparently been mixed up, we can consider them. As to the rest of them, we are not looking at the back of waybills. We don't care about them. This is information we get from the face of the waybills.

I think counsel is just belaboring the subject, but if he wants to go through with it, let him take the time.

Exam. Dishman: All right. Proceed.

Mr. Rockwood: Mr. Examiner, in connection with the very gracious remarks of Mr. Maguire—

Mr. Maguire: No trouble at all, I assure you.

Mr. Rockwood: —I call attention of the Examiner to discussion at page 3791 of the record, which had to do with this long ten days' delay. Mr. Maguire said: "Of course, I may add, gentlemen, that we do not contend that all of your interchanges are this bad." And then added: "No, but if it is typical of this kind of delay, and I think you will find some others in here, too."

Well, if he is attempting to show things which are typical of delay by relying on papers which are obviously confused and mistaken in their assembly, I think we have a right to show it.

Exam. Dishman: Proceed.

Mr. Maguire: I wish to be heard. I don't wish to get into a squabble about this, Mr. Examiner, but even taking those [fol. 4015] remarks which counsel attributes to me, I didn't have the record so I couldn't comment on his accuracy, but I assume he read it correctly—that what we are interested in here is the date, the date and hour the waybill was received by the Milwaukee, and the date shown on the face of the waybill that the car arrived in Spokane on the SP&S, SP&S Railway, NP Railway, passed Spokane stamp, which has been mentioned.

As to the intervening moves, there is nothing taken from the back of these waybills. The fact still remains, assuming that there is a back sheet which has been erroneously attached, the fact still remains on the car in question that the waybill was received on the 12th; that the car itself was not received until ten days later.

Mr. Rockwood: That I take exception to. There is no proof the car itself was not received until ten days later.

Mr. Maguire: I noticed it went over the interchange reports and you didn't say anything about it.

Mr. Rockwood: I didn't find it.

By Mr. Rockwood:

Q. Are you prepared to concede there is error in the comparison of those two waybills, Mr. Crippen that I showed to you?

A. I can say simply this: that the reverse lettering to the attachment on the reverse side of the waybill for SP&S 34005 has apparently the same typographical information as appeared on the face of the waybill for CP 221862, but [fol. 4016] which I did not previously testify, but that the information, the basic information shown on the face of the waybill for SP&S 34005, including the waybill number, date, point of origin, contents, the time the stamp indicates the car passed Spokane and the time the waybill was received by the Milwaukee at Spokane, is correct.

Q. Are you prepared to state that that car was in Train 64 on September 22? Did you check that as a fact? Do you know right now?

A. I have checked our train lists and the car, SP&S 34005, was in Train No. 64 September 22.

Q. You say that under oath?

A. That is to the best of my knowledge, having checked the train list.

Q. But you had no such question as this in mind when you checked the train list, did you?

A. I had in mind simply the factual information concerning the movement of the car, and to the best of my knowledge, I have testified to the facts.

Q. You checked the train lists, but you weren't checking this particular car; you didn't have this in mind, did you?

A. I had in mind the forwarding of the car from Spokane.

Q. That particular car? Do you remember giving it particular attention?

A. It was one of the cars about which I testified, and so I [fol. 4017] did check it.

Q. When did you examine the train sheets?

A. It would be maybe ten days ago.

Q. Which did you examine first, the waybills or the train sheets?

A. The first had to be the photostatic copies of the waybills, then the train lists and then the train sheets.

Q. You noticed particularly that there was a ten-day delay on that car, and so you checked it; is that right? Tell us, frankly, did you, Mr. Crippen?

Mr. Maguire: That is an insulting manner of addressing the witness.

Exam. Dishman: Yes. Mr. Crippen is under oath.

Can you answer the question?

The Witness: Will you read the question, please?

(Question read.)

The Witness: I was looking for three types of handling for illustrative purposes. One was cars and waybills which were received in reasonable season and the car moved forward the same day, typical of a prompt movement—prompt handling of cars, waybills and movement of cars.

A second category was a delayed type car, where the waybill may have been received, but the receipt of the car was delayed, or vice versa, and a third type, which, from the information available, indicated there would be some [fol. 4018] advantage to the advancement of the car if the SP&S shuttle connecting No. 276 set out at Erie Street and where we found those characteristics, then we selected the waybill as examples to illustrate the three types of handling into Spokane terminal.

Q. That doesn't answer the question specifically relating to Northern Pacific 34005 that I asked you, whether you remember making a specific check of that car.

A. SP&S 34005—

Q. That is right.

A. —was an example of a delayed car and was put into that category.

Q. That doesn't quite answer the question. Did you make a special examination of that because of the fact that there was a 12-day delay and check that specially? Did you?

A. I made a basic examination and I later had it checked by others. I did not personally go back to make a second check of that car.

Q. But did you make—I don't think that yet answers the question. Do you recall making a specific check of this car?

A. Yes, sir, I do.

Q. Bearing in mind that it was a 12-day delay?

A. Yes, sir; 10-day delay.

Q. You found it. Where was it between the time the Milwaukee got the waybill and the time it got out of town?

A. I—

[fol. 4019] Q. Did you look that up?

A. I had no record of that. When we received the car on September 22, it was matched with the waybill and forwarded.

Q. But you made no effort to find out where it was in the interval?

A. No.

Q. But you yesterday interpreted this waybill as showing it was back in Willridge, Vancouver—

A. My interpretation was simply that there were stamps on the back of the waybill which were indicated as I testified.

Q. But you have a very distinct recollection that you made a specific check of that car?

A. Yes, sir. I do have. It was the only one in which there was ten days involved. I personally made the first observation. The check which I had made was made by someone else.

Mr. Maguire: It occurs to me there is just one question for Mr. Rockwood left to ask the witness, and that is: Are you a liar or are you not a liar?

Mr. Rockwood: I haven't asked that.

Mr. Maguire: You have insinuated it, anyway.

Mr. Rockwood: I would like to have marked for identification these two photostatic copies of waybills which Mr. Crippen loaned to me yesterday. The first on its face appears to relate to SP&S Car 34005.

Exam. Dishman: You want them identified as exhibits?

[fol. 4020] Mr. Rockwood: Yes.

Exam. Dishman: Do you have copies?

Mr. Rockwood: No. I will have copies made if I may withdraw the exhibits for that purpose.

Exam. Dishman: Actually, after they once come in you can't withdraw them.

Mr. Rockwood: I will hold these over the afternoon and attempt to have copies available tomorrow morning.

Mr. Maguire: I will say this, Mr. Examiner, that when they are offered by counsel, we might as well deal with that now because I know he intends to offer them, but I will object to them because they are covering completely a moot question.

We have said we are not interested in any figures on the back of that waybill and I think rather than that, to save the expense, we might as well have a ruling.

Mr. Rockwood: That statement as to lack of interest on the back of the waybill was made today. It did not deter him from putting in the information on the back of the waybill through the witness at page—

Mr. Maguire: 3791.

Mr. Rockwood: —at page 3791.

OFFERS IN EVIDENCE

Exam. Dishman: Do you want to offer those as exhibit of counsel?

Mr. Rockwood: Yes, as part of cross examination.

Exam. Dishman: How many would there be?

[fol. 4021] Mr. Rockwood: Two of them. I may say—

Exam. Dishman: You object to their receipt on the ground the question is moot?

Mr. Maguire: It is a moot question.

Exam. Dishman: I will rule now they will be received for whatever weight the Commission will give them.

(Defendant's Exhibit No. 136 and 137 Counsel Rockwood, were identified and received in evidence.)

Mr. Rockwood: There is a penciled figure in the upper right-hand corner of the exhibit, SPS-34005—3791, which is the page in the transcript, at which your testimony with respect to that waybill appears. That was not on the waybill when you handed it to me yesterday, was it?

The Witness: No, sir.

Mr. Rockwood: I will say it was put on by me about half an hour ago.

Mr. Maguire: Are you sure? You are not under oath.

Mr. Rockwood: An hour and a quarter ago.

By Mr. Rockwood:

Q. Some of these other—are you sure that you properly matched up the other exhibits on the front and back correctly, these other photostats?

A. Mr. Rockwood, I did not staple the fronts and backs together. The fellow who was handling them for photostats stapled the front and back pages together. It is my understanding that they were correctly stapled.

[fol. 4022] Q. But you did not check the photostats after you got them ten days ago to see whether they were correctly matched up front and back?

A. I didn't check the front and back, because the information in which I had an interest was on the front of the waybill, with, I think, one or two possible exceptions.

Q. At page 3794 of the record, you discussed the waybill covering GATX 52629. I call your attention to what purports to be the reverse of this waybill. It shows that at one time or another it was clipped together with a metal clip. There is a picture of it. The face of it shows no such impression of a metal clip.

Do you know whether the front and back of that document relate to the same car?

Mr. Maguire: Where is this metal clip you are talking about?

Mr. Rockwood: In other words, the picture on the map is not the same as the picture on the front. We have a lot more.

Mr. Maguire: I had no doubt that you would.

Exam. Dishman: We will take a short recess now.

(Recess taken.)

Exam. Dishman: The hearing will be resumed.

Do you understand the question that was asked before we took the recess, Mr. Crippen?

The Witness: I think I understand the question. I would [fol. 4023] appreciate having it read.

Exam. Dishman: Can you restate the question?

By Mr. Rockwood:

Q. We were discussing, Mr. Crippen, this waybill which covers GATX 52629, which you discussed at page 3794 of the record, and I asked you to notice that by the attachment, what purports to be the reverse side of that waybill, indicates that at one time it was clipped together with a metal clip and there is no indication of the photostat on the face that there was ever a metal clip through that document.

From that would you infer that there was a confusion or mix-up in the face and the reverse of that waybill?

Mr. Maguire: That is objected to as immaterial because the witness has testified he used no information from the back of the waybill and the question of whether the back of the wrong waybill is attached is entirely immaterial.

Exam. Dishman: Well, for whatever it may be worth, the witness may answer.

The Witness: I have observed the marking on the reverse of the waybill which you have indicated to me. If I were to presume that that was a paper clip, it would be purely conjecture on my part. It may be. I did not testify to anything on the reverse of the waybill, but testified only to information on the face of the photostatic copy—the photostatic copy of the face of the waybill.

By Mr. Rockwood:

Q. Are you prepared to state positively that if you had [fol. 4024] the correct reverse side of that waybill before you, there would be no pertinent information on it?

A. The term "pertinent" is rather broad. The information to which I testified and which was pertinent to my purpose is all on the face of the waybill.

Q. Not knowing what is on the actual reverse of that waybill, you don't know whether there might be information inconsistent with what appears on the face, do you?

Exam. Dishman: Of course, you wouldn't know if you don't know what is on the reverse side. Wouldn't that be your answer?

Mr. Maguire: That is a matter of argument, Mr. Examiner.

By Mr. Rockwood:

Q. Is the fact that the face and the reverse are not from the same piece of paper, Mr. Crippen?

A. I don't know.

Q. There is some indication that on the back of that, typing apparently showed through in the photostatic process. Are you able to match that up with anything on the face?

A. The markings which you referred to, I do not find similar markings on the face, but that does not mean that those markings were on the face of any waybill.

Q. It certainly doesn't mean that they are on the face of the waybill of which the reverse is a picture; is that correct?

A. No. It does not mean that those markings were on the face of the waybill.

[fol. 4025] Q. And you will not venture an opinion as to whether that document that you have before you represents the face and reverse of the same piece of paper?

Mr. Maguire: The witness has stated that he doesn't—

Exam. Dishman: I think he has answered that.

Mr. Maguire: He has answered that already. This is argument with him now.

By Mr. Rockwood:

Q. Where are the train sheets or other documents showing car numbers which you examined to determine the time of departure of particular cars in particular trains from Spokane?

A. At Spokane.

Q. Are they available to you?

A. Yes, sir.

Mr. Rockwood: I request that Mr. Maguire secure and file as a late filed exhibit a photostat of a train sheet which bears on its face an indication that Car No. SP&S 34005, left Spokane in any particular train of the Milwaukee.

Mr. Maguire: Mr. Examiner, I submit that that is going beyond the scope of proper cross examination. At the St. Paul hearing in this case there were a number of witnesses called on behalf of the Defendants, who, when they were requested and inquiry was made as to whether they had the basic data, they did not have it there with them.

I don't think it is within the scope of cross examination [fol. 4026] to demand photostatic copies of the basic figures. The witness has testified that he secured this from the train sheet and that in the ordinary and normal manner of presentation of cases before this Commission is sufficient.

This witness is not lying about it. He is not perjuring himself. It is just simply a part of the pattern which has existed right from the beginning of this case on the part of the Defendants to put the complainant to just as much trouble and expense as they possibly can.

I therefore must decline, unless I am ordered by the Examiner to do so.

Exam. Dishman: The record will show that Mr. Maguire declined to file that as a late filed—or furnish that as a late filed exhibit.

Mr. Rockwood: He declines to?

Mr. Maguire: Unless it is ordered by the Examiner.

Mr. Rockwood: Will the Examiner please direct that is pertinent information, to which I am entitled?

Exam. Dishman: No. I won't make that demand if the Complainant doesn't wish to file that data. The record will

show that request was made, and that Mr. Maguire declines to furnish it.

Mr. Rockwood: In connection with Mr. Maguire's remark, can you refer to any instance in the record where we were requested to furnish information which we did not, which we declined to do, Mr. Maguire?

[fol. 4027] Mr. Maguire: You did not have your records available and I did not treat you in the same manner that you have treated us consistently since the beginning of this case. I was willing to take the witness' word for the ultimate facts. That has not been the position of you from the very beginning of this case.

Exam. Dishman: Gentlemen, this has nothing to do with the merits of the case.

Mr. Maguire: I don't think it has.

Mr. Rockwood: I have nothing further, Mr. Crippen.

Exam. Dishman: Anything, Mr. Torinus?

Mr. Torinus: I have no questions.

Exam. Dishman: Mr. Golden?

Mr. Golden: Yes, sir.

Cross examination.

By Mr. Golden:

Q. In response to questions by Mr. Rockwood, you indicated that the SP&S shuttle train might be held on a siding at Marshall Junction. I presume you had in mind the connecting track between the SP&S and the Northern Pacific at that point?

A. Yes, sir. There are other trackage there. There is a siding at Scribner and there is a connecting track to the Northern Pacific main track, and the SP&S train is not permitted to enter the Northern Pacific track at that point until authorized by the NP dispatcher, and he would hold him at that point, or could hold him at that point if it [fol. 4028] suited his convenience.

Q. Scribner, of course, is the point or station on the SP&S, which is west of Marshall Junction?

A. That is right, a very short distance west.

Q. The connecting track between the SP&S and the

Northern Pacific at that point would be about seventy cars in length, would it not?

A. Yes, that is right.

Q. So that any train the SP&S might have in excess of that amount would foul either the Northern Pacific main line track or the SP&S main line track?

A. If it were held to clear the Northern Pacific main, it would not foul the Northern Pacific main. It might be on other trackage of the SP&S or it might be held to foul the main track, if that is convenient at the time.

Q. But it would foul one or the other?

A. Not necessarily, no. The siding at Scribner will hold 70 cars. There are other tracks at Scribner. It would be entirely possible to get a hundred cars in the clear without fouling either the SP&S main or the Northern Pacific.

Q. You mean break the train up and take a part of it on west to Scribner?

A. Not on west to Scribner, but on other trackage at Scribner.

Q. Marshall Junction and Scribner are two different stations on the SP&S and the Northern Pacific, are they not? [fol. 4029] A. They are contiguous. Marshall Junction is the connection between the SP&S and the Northern Pacific. Scribner is on the SP&S, a short distance west of Marshall Junction.

Q. Do you know that there are tracks at Scribner which are free of other cars that could be used by the SP&S for that purpose?

A. I know there is a siding and that there is other trackage at Scribner.

Q. Have you observed those tracks when they have been free of cars which have been held at that point?

A. You mean have I observed the situation on the track as it was clear at Scribner?

Q. Yes.

A. I have.

Q. The siding you speak of?

A. Yes, sir.

Q. The train, the SP&S shuttle train which runs from Marshall Junction to Yardley is a train in main line operation, is it not?

A. Yes, sir.

Q. If that train were stopped as you suggest, in order to make a set-off at the Erie Street Yard, do you know whether or not it would be necessary to make an arbitrary payment to the crew of that train to make the set-off?

A. I am not familiar with the labor contract with the SP&S. I do know that from a contractual right and from [fol. 4030] an operating standpoint, they can make the set-out. Now, whether the SP&S makes arbitrary payments for that, I do not know. I do know that the outbound crews of the SP&S frequently make a pickup at Erie Street, westbound.

Q. As to your interpretation of the contractual right, I, of course, do not agree, but you do not know whether there would be an extra payment if it were done, assuming it could be done?

A. I do not know what the arrangement, as far as arbitrary payments to SP&S crews are concerned, in connection with an additional set-out within a terminal.

Q. With regard to the cars that you testified to, which moved through the Spokane terminal during the fall of last year, did you make any check to determine whether any of those cars were bad order at the time that they were in the Spokane terminal prior to the time they were received by the Milwaukee?

A. If they were bad order on the Northern Pacific, I would have no information about that. Of those which I did examine, in the period September 15 to October 16, I found two which were bad ordered at the interchange point and were not accepted in interchange in accordance with the ICC safety rules.

Q. That is when they were placed on the Milwaukee interchange track?

A. That is right.

Q. As to whether any were bad order prior to that time while in the possession of the UP, you do not know?

[fol. 4031] A. I don't know.

Exam. Dishman: Did you want redirect examination after each one?

Mr. Maguire: No. I will wait until they are through.

Exam. Dishman: Anything, Mr. Hillman?
Mr. Hillman: No.
Mr. James: No questions.
Exam. Dishman: All right.
Mr. Maguire: Just a few questions.

Redirect examination.

By Mr. Maguire:

Q. You stated, Mr. Crippen, that Scribner and Marshall were not far apart. Could you give us any approximation of the distance between the depots of the two, at the two stations?

A. My best estimate would be not to exceed one mile.

Q. Do you know when the North Coast Limited of the Northern Pacific, a passenger train, in each direction, when it is due to pass through Spokane?

A. In a general way, I have reviewed the timetables. I correlated the schedules as shown in the timetable, with reference to the testified arrival of 6 or 6:30 p.m. at Yardley, of the SP&S shuttle. If you ask me to tell you specifically what the schedule is, I won't be able to recall that exactly.

Q. I am handing you a copy of the official guide, railway guide, for May, 1955, and I am looking at page 1093, with [fol. 4032] the condensed timetable showing the North Coast Limited. Can you show the hours, according to that guide, that the North Coast Limited passes through Spokane, both eastbound and westbound?

A. The guide, in the condensed schedule, page 1093, indicates No. 25, westbound, arrives Spokane 10:45 p.m.; No. 26, eastbound, departs Spokane 10:45 p.m.

In that connection, there are the trains No. 1 and 2 which also pass over this railroad crossing.

Q. Let's supply those.

A. Table No. 3 of the Official Guide of Railways for May, 1955, indicates, No. 1, arriving Spokane 6:45 p.m., departing 9:10 p.m.; and No. 2, arriving Spokane 8:10 a.m., departing Spokane 8:35 a.m.

Q. In your opinion, would the arrival or departure times

or the presence of any one of those four trains; that is, each of those two trains, North Coast and Nos. 1 and 2, interfere with the handling of the cars directly into the Erie Street Yard, as suggested by you?

A. If the trains were operating on schedule, and if the shuttle were to arrive at Yardley around 6 or 6:30 p.m., the operation of the shuttle would not interfere with any of the passenger trains.

Q. Reference is made by Mr. Rockwood to a car, GATX 52629, and he made reference to your testimony on page 3794. I would ask you to refresh your memory as to that [fol. 4033] testimony, as to the dates and hours you show there, and ask you whether, by any conception, there could be information on the back of any waybill which would change those figures?

A. I have refreshed my memory on my testimony on page 3794 pertaining to GATX 52629, and I do not find anything on the reverse side of the waybill which would in any way change my testimony.

Q. Is there—judging from the proximity of those hours there, can you conceive of any entries on the back of the waybill, assuming this back to be incorrect, which would change your testimony?

Mr. Rockwood: I object. I think that is speculative. Can he conceive of anything? I object to that as speculative and calling for a conclusion.

Exam. Dishman: You have stated there is nothing on the back to change your testimony. Wouldn't that cover it?

Mr. Maguire: That is on the back as it is. Mr. Rockwood is insisting this is the wrong back.

Mr. Rockwood: I am not insinuating it. I am stating it is the wrong back.

Mr. Maguire: You are stating it. All right. That is your opinion.

By Mr. Maguire:

Q. When you consider the proximity of the hours and dates there, can you conceive of any conflicting stamps that could be on the back of a waybill, assuming for the sake of [fol. 4034] argument this is the same back?

Mr. Rockwood: Same objection.

Exam. Dishman: The witness may answer if he has an opinion.

The Witness: I can't conceive of any pertinent stamps or other information which would change my testimony with reference to that car.

Mr. Maguire: That is all.

Exam. Dishman: Is there anything more of this witness?

Mr. Rockwood: I have nothing further.

Exam. Dishman: The witness is excused.

(Witness excused.)

Mr. Magnire: Now, may I ask, I think you have two horrible examples you want to save out.

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

Mr. Rockwood: Mr. Examiner, we now have reproduced these exhibits that I was talking about first, the one that bears on its face reference to car SP&S 34005, referred to at page 3791 of the record.

Exam. Dishman: That will be identified as Counsel Rockwood's Exhibit No. 136.

Mr. Rockwood: I would like to have marked for identification this combination of two sheets, on the face of which is a waybill relating to Car CP 221862.

[fol. 4035] Exam. Dishman: That will be marked as Counsel Rockwood's Exhibit No. 137.

Mr. Maguire: Could I look at the original of that for just a moment?

Mr. Rockwood: I offer in evidence Exhibits 136 and 137.

Mr. Maguire: I do wish to call one thing to the attention of the Examiner: If all of the copies are like mine, when you look at Exhibit 137, the method of reproduction I realize was made very quickly, but there is a great deal of it that doesn't show, if you will compare it with the original photostat.

Mr. Rockwood: You mean the job was poor?

Exam. Dishman: Off the record.

(Discussion off the record.)

Mr. Maguire: I object to both of those on the ground that they are really on moot questions at the present time.

Exam. Dishman: In view of the ruling heretofore made, they will be received in evidence and your remarks will be considered, Mr. Maguire.

Mr. Maguire: Mr. Engel is now available for cross examination.

H. O. ENGEL resumed the stand and testified further as follows:

Cross examination.

By Mr. Torinus:

Q. Mr. Engel, I would like to ask you some questions first about Mr. Lear's Exhibit 46. You testified on page 3920 [fol. 4036] of the transcript yesterday concerning testimony of Witness Lear, at pages 2857 and 2858 of the transcript, to one of two principal movements; viz., 4603 cars of lumber from SP&S origins to Official Territory, which are treated as competitive traffic for the reason that rates are also applicable via Marengo, Washington.

That figure of 4603 appears on Exhibit 46, at the bottom of page 10, the first column; is that correct?

I show you my copy. That is where you got that figure of 4603?

A. Yes, sir, that is, and I relied on the definition of traffic group 5, which is defined on page 1 of the exhibit, reading, "Traffic originating on SP&S System which terminated in the year 1953 at stations east of Spokane, not served by Great Northern, Northern Pacific or Milwaukee Road, where Great Northern was intermediate carrier.

"Examples of those five destinations: Buffalo, New York, Cleveland, Ohio, Atlanta, Georgia, Dallas, Texas, and Peoria, Illinois."

Q. Group 5 destinations embrace more than Official Territory; isn't that correct?

A. Yes. It did, but if we are dealing with traffic orig-

inated on the SP&S, obviously, since we don't have any rates from points on the Southern Pacific or Union Pacific to the Southeast, or the Southwest, we are actually con-
[fol. 4037] fining the destination territory to Official Territory, or there is a possibility that there is something there east of the transfer, so to the extent that there was some movement into WTO Territory, where the Great Northern or Northern Pacific—I believe in this case it would be the Great Northern—turned over to connecting lines, that would be correct.

Q. In other words, the figure of 4603 is for the full number of group 5 competitive cars, whether the destination was Official Territory or not; isn't that correct?

A. It is for group 5. I should have perhaps termed it as group five destination territory to be more specific, as related to that exhibit, yes, sir.

Q. And this figure of 4603, in your testimony, is the figure on the bottom of page ten that I called your attention to; that is the figure to which you referred?

A. I believe that is correct, yes, sir.

Q. Now, you referred on page 3825 of the transcript to the fact that approximately 35,000 carloads of lumber moved to points in the Pacific Northwest within the jurisdiction of the Transcontinental Freight Bureau, Seattle, which were recorded for transit with that Bureau during the year 1954. Can you tell us over what territory the Transcontinental Freight Bureau, Seattle, has jurisdiction and within what area these transit points are located?

A. Yes, sir, I can. The jurisdiction of the Transconti-
[fol. 4038] nental Freight Bureau, Seattle office, extends from Riddle, Oregon, and Cascade Junction, Oregon, on the Southern Pacific on the south, Chemult, Oregon, on the GN Railway, to the International Boundary on the north, and from the Pacific Ocean to Huntington, Oregon, on the east, Avery, Idaho on the Milwaukee, and Paradise, Montana, and Whitefish, Montana; Paradise, Montana, on the NP Railway, and Whitefish, Montana on the GN Railway.

Q. Generally speaking, the territory embraced is Washington, Oregon, Idaho and Western Montana; is that correct?

A. Generally speaking, yes, sir.

Q. Now, if one were to compare this figure of 35,000 carloads recorded for transit in that particular year with the originations of lumber in the Pacific Northwest to arrive at a percentage, the figure of 35,000 carloads would approximate something less than ten per cent of the total originations of lumber, wouldn't you say, Mr. Engel?

A. Not having the total before me, I couldn't say, no, sir.

Q. You could refer, for example, to Mr. Lear's Exhibit 124, which shows total originations of Lumber, shingles, lath, veneer, plywood, built-up wood, originating on Class 1 railroads in the States of Washington and Oregon, which indicates that for the year 1953, the total originations in those states on Class 1 railroads was 354,367 cars.

Do you accept that figure, Mr. Engel?

A. Yes, sir; I would.

Q. Now, of course, that exhibit does not include orig-
[fol. 4039] inations on short line connections but simply Class 1 railroads, and you are aware, are you not, that a considerable quantity of lumber originates on short lines in both of those States; is that correct?

A. Yes, sir.

Q. Also, this exhibit does not—

Mr. Maguire: Pardon the interruption, Mr. Torinus. Where do you find this 350,000 on Exhibit 124?

Mr. Torinus: The figure of 354,367 is my addition of the totals for the Class 1 railroads for the State of Washington shown in the last line on page 1, and for the Class 1 railroads in the State of Oregon shown in the last line on page 2.

I think you will find that that total is 354,367.

Mr. Maguire: Could I have the question read now?

The Witness: There is no question.

Mr. Maguire: Or is it finished?

Mr. Torinus: I don't think there is a question pending.

The Witness: He asked me if I would accept that.

Exam. Dishman: And your answer was—

By Mr. Torinus:

Q. Will you accept that total, Mr. Engel, subject to check? That is my arithmetic. That is my addition of the totals on pages one and two.

Mr. Maguire: If your answer is right, we will accept it. If your addition is right, we will accept that, as that is what the exhibit shows.

[fol. 4040] By Mr. Torinus:

Q. Now, do you care to take the time, Mr. Engel to check my addition, because I have some more questions based on this particular figure, and let's have it settled now if my addition isn't right. Or do you want to accept it subject to your later check and correction?

Mr. Maguire: You just added 97,000 to 256,000, I believe it was?

Mr. Torinus: That is right. I came up with 354,367. Will you accept that?

Mr. Maguire: You sound like a reasonably good adder, yes. We will accept that for the time being, subject to correction, if you missed it.

[fol. 4041] Q. If Mr. Lear had included the lumber originating on short line connections in those States, that figure would be considerably larger; is that right?

A. It would be larger.

Q. If he had included the originations of poles and piling the figure would be still larger; isn't that correct?

A. I am not sure if those are just straight lumber. I guess they are.

Q. It says "carloads of lumber, shingles, lath, veneer, plywood, and built-up wood.

A. Yes, they would be larger.

Q. Poles and piling are included in the 35,000 carloads moving to transit points that you referred to on page 3825 of the transcript?

A. Yes, sir; they would be.

Q. Of course, there are originations of lumber, poles, and piling in the State of Idaho which could move to transit points within the jurisdiction of the transcontinental Freight Bureau; is that correct?

A. Yes, sir; there are.

Q. Also originations of lumber in that State—considerable quantities of lumber?

A. I can't think of a one now at the moment of lumber originating in Idaho that would be sent to an Idaho milling and transit point, at least in our line. That is, lumber, [fol. 4042] right offhand I can't think of one.

Q. Now, any lumber originating in British Columbia which moved eastbound through the State of Oregon, through the State of Washington, Oregon, or Idaho, which was stopped in transit within any one of those three States, would stop at a transit point within the jurisdiction of the Transcontinental Freight Bureau at Seattle; isn't that correct?

A. That is.

Q. Also any lumber or poles or piling originating in northern California moving north and then east through those States?

A. Yes, sir; that is correct.

Q. So that actually the figure of 35,000 carloads which you said moved to points in the Pacific Northwest within the jurisdiction of Transcontinental Freight Bureau, and were recorded for transit, is probably considerably less than ten percent of the total originations of lumber within the Pacific Northwest territory moving by rail; isn't that correct?

Mr. Maguire: Just a moment.

Mr. Examiner, this is nothing but argumentative cross-examination because Mr. Torinus has the figures there. He can ask the basic questions which he has asked. Now, then, to beat it down into percentages, that can be done in brief rather than to try to put it in the mouth of a witness. I submit that is argumentative cross-examination.

Exam. Dishman: Could you handle that on brief, Mr. [fol. 4043] Torinus, the percentages and all?

Mr. Torinus: I think the answer is quite obvious, and I won't press the question.

Mr. Maguire: All right.

Exam. Dishman: All right.

By Mr. Torinus:

Q. Now, going back to Mr. Lear's revenue loss study, Exhibit 46, which occasioned this comment, you are aware,

of course, that there is not included in the revenue loss study any lumber transited on the Great Northern?

Mr. Maguire: When you talk about revenue loss study may I ask what counsel is referring to?

Mr. Torinus: Exhibit 46.

Mr. Maguire: I don't like your characterization of it. I think it should be referred to as the exhibit number.

By Mr. Torinus:

Q. You are aware that that does not include cars of lumber transited on the Great Northern?

A. I couldn't say for sure. I remember some testimony along that line.

Exam. Dishman: You don't know, Mr. Engel, of your own knowledge?

The Witness: I don't.

Mr. Maguire: I think the record will speak for itself on that, Mr. Examiner. We have Mr. Lear's testimony.

Mr. Torinus: So there will be no question about it that was Mr. Lear's testimony at transcript page 2875, and [fol. 4044] the same statement was made by Mr. Webb, who said that his Exhibit 47 was prepared on a similar basis.

Mr. Maguire: I still am not accepting the interpretation of the testimony, and if you wish to continue that further questioning of this witness I think that he should have a chance to look at the transcript.

Exam. Dishman: The record will speak for itself.

Mr. Torinus: The record will speak for itself.

Mr. Maguire: If you are commenting and not asking a question, that is all right.

By Mr. Torinus:

Q. Now, Mr. Engel, while it is true that, as you have testified, cars originating on a Southern Pacific—originating on the Union Pacific, moving via Marengo, are not accorded certain transit privileges on the Southern Pacific and Union Pacific, there is no restriction against transit on the Milwaukee with respect to any of that traffic, once you receive it; isn't that correct?

A. That is correct.

Q. And, in addition, if a shipper on the Union Pacific or the Southern Pacific, or a shipper desiring to utilize the Southern Pacific or Union Pacific routes desires to avail themselves of transit on those lines, he may do so if those lines are accorded their maximum haul; isn't that correct?

A. Not in all cases. As I understand it, they provide transit on traffic delivered to the S. P. & S. at Portland, [fol. 4045] which does not give them their maximum haul.

Q. You don't mean to say not in all cases. You mean to say in all cases where they are accorded their maximum haul, transit is permitted on the Southern Pacific and Union Pacific, and, in addition, transit is permitted on the Southern Pacific and Union Pacific, where the S. P. & S. has a haul; isn't that correct?

A. I haven't checked all of their applications. I did check our routing and rate applications through Marengo, and I did, if I recall correctly, take note of the absence of any restriction on the routes through Portland, and beyond that I couldn't say.

Q. So far as the shippers out there are concerned, to the extent that they wish to avail themselves of transit, transit on those lines, if there are any shippers who do wish to utilize transit on the Southern Pacific or Union Pacific, there are plenty of routes available to them; isn't that correct—to the entire United States?

A. Plenty of routes?

Q. Plenty of routes. Well, take a shipper at Eugene, on the Southern Pacific. He wants to utilize transit privilege at some other point on the Southern Pacific, or on the Union Pacific. There are routes from Eugene, Southern Pacific, Southern Pacific, Union Pacific, first giving Southern Pacific its long haul, all the way to El Paso, giving the Southern Pacific a haul in connection with the Union Pacific to Council Bluffs, and a number of other routes available [fol. 4046] to the shipper. Isn't that correct, where he may avail himself of transit privileges?

A. As I said, I didn't check them. I am not sure.

Q. All right. That is your answer to that question. You haven't checked the routes so you are not sure?

A. That is my answer; yes, sir; in connection with the transit privilege.

Q. Now, before we pass that point, Mr. Engel, isn't the transit privilege permitted in those instances where the Southern Pacific would get a haul all the way to El Paso, for example?

A. Generally, the transit privileges apply in the Pacific Northwest territory in cases where the origin line or the transiting line gets a substantial haul, and on that general premise I have no doubt that the S. P. accords transit under their routes through El Paso, Texas, in my own mind.

Exam. Dishman: But you have not checked?

The Witness: But I have not checked it.

By Mr. Torinus:

Q. And that the S. P. accords transit in connection with its routes in connection with the U. P. via Council Bluffs?

A. On that general premise, I would assume so.

Q. And that the U.P. also accords transit where it gets its maximum haul?

A. Yes, sir; I am sure of that.

[fol. 4047] Q. Now, that is the general pattern of the routing and the transit privileges in connection with eastbound transcontinental operation; is that correct?

A. That is; yes, sir.

Q. Now, turning to Exhibit 112, which was Mr. Tein's exhibit, you suggested, on page 3830 of the transcript in your testimony yesterday that if there were eliminated from the Milwaukee tonnage shown on page 21—do you have that exhibit?

A. Yes, I have the page from which I was reading. I don't have the complete exhibit.

Q. You suggested yesterday that if there were a revision in page 21 of that exhibit so as to eliminate all of the mills on the Southern Pacific in Oregon and the Union Pacific in Oregon and Washington, as potential tonnage available to the Milwaukee for movement through Avery, Idaho, substantial reductions in the number of feet available to the Milwaukee as compared with the number of feet available

to the Great Northern in connection with its routes through Leonia, and the Northern Pacific, through Cabinet, should be made. Do you recall that testimony?

A. Yes, sir; I do.

Q. Exhibit 112 simply purports to show, does it not, the lumber capacity at stations in Washington west of Spokane and Oregon, Pebbleton and west, and paired with the lumber mill capacity at stations in Idaho, Montana, and in Washington, Spokane and east, available to each of these lines?

[fol. 4048] Mr. Maguire: Just a moment, Mr. Engel.

I submit, Mr. Examiner, that the exhibit will speak for itself, together with the supporting testimony of the witness offering that exhibit, and that I don't think that Mr. Engel should be required to summarize the effect of an exhibit offered by the defendants in this case.

Exam. Dishman: The exhibit does speak for itself, does it not?

Mr. Torinus: Mr. Examiner, Mr. Engel has undertaken to criticize the exhibit, and to suggest certain omissions, and I am simply attempting to bring out on cross-examination that these omissions would be out of character with the purpose of the exhibit, as indicated on the title page. I think so long as he has testified as to what should be taken out I should be permitted to cross-examine him as to the purpose of the exhibit.

Mr. Maguire: The thing is, Mr. Examiner, that that is something that counsel can mention in brief and can cover in brief, because he has his testimony explaining the exhibit, and that is a proper matter in brief rather than to try to force a witness to characterize or to summarize an opposing witness' exhibit.

Exam. Dishman: You did testify, did you not, Mr. Engel, yesterday regarding that exhibit?

The Witness: Yes, sir.

Exam. Dishman: What should be left out?

The Witness: I didn't say that it should necessarily be [fol. 4049] left out. I said that if that were done, the amounts would be reduced. I might add that while the exhibit is in two parts, and it has got this matter as to the

production in the first part of it, and it apparently ties in with the second section, it is, as I recall it, referred to in the second part, and it does contain matter that could be used independent of the second part, and my testimony was directed to any possible use of it independent of the second part of the exhibit.

Mr. Maguire: I might add, Mr. Examiner, too, that Mr. Torinus has attempted to make Mr. Engel characterize this exhibit as a mere innocent statement of capacity of lumber mills within certain territory. However, that statement is obviously incorrect on the face of the record, because—

Mr. Torinus: Just a minute. If we are going to argue this case in brief, you argue it in brief.

Mr. Maguire: Are you going to pursue that questioning or are you defending your position?

Mr. Torinus: I am going to ask the questions I am about to ask and you can object to them at the proper time.

Exam. Dishman: Do we have a question unanswered?

Mr. Torinus: No. I am about to ask another one.

By Mr. Torinus:

Q. Maybe we can get at this another way, Mr. Engel: You don't contend, do you, that all of this lumber shown on Exhibit 112 as the capacity of the mills in the States of [fol. 4050] Idaho, or, rather, in the States of Washington, west of Spokane, Oregon west of Pebbleton, including mills on the Southern Pacific, and Union Pacific—you don't contend that the lumber originating on those mills may not be transited on the Chicago, Milwaukee, St. Paul & Pacific Railroad, or may not be stopped for transit on your railroad east of Spokane, do you?

A. I do contend that—

Q. Can't you answer that "yes" or "no"?

A. The answer is I do contend that they are not—that it is not eligible.

Q. For transit on your railroad east of Spokane?

A. For a very practical reason, yes.

Exam. Dishman: State the reason, then.

Mr. Maguire: Let us let him state the reason.

Exam. Dishman: Yes, let him state the reason.

The Witness: As I testified, while the transit is available for example at St. Marys, Idaho, on our line, the fact that the destination territory is limited precludes the use of that tonnage for transit purposes for all practical purposes. No thinking transit operator would bring a car of lumber in if he is in the business of milling in transit and shipping to the East, generally. That is exactly why I say that it is not potential tonnage to the Milwaukee-Marengo route.

Q. Can't we, Mr. Engel, get at this in a much simpler [fol. 4051] way: Isn't the tonnage shown as available to the Milwaukee, through Avery, Idaho, available to the Milwaukee to transit operators on the Milwaukee, east of Idaho, from a tariff standpoint?

Mr. Maguire: Mr. Examiner, that is a trick question.

Mr. Torinus: There is nothing tricky about it. He is an expert, and I am asking him if it isn't available from a tariff standpoint.

Mr. Maguire: Are you through with your interruption to my objection?

Mr. Torinus: I am not interrupting you. You interrupted me. Go ahead.

Mr. Maguire: I object to that as a trick question because it contains one assumption which is just slid in. That is that all of this tonnage, all of these millions of feet are available to the Milwaukee for transit on the Milwaukee. If the question is simply this, as to where lumber originating—any lumber originating at these mills which is shipped over the Marengo routing, whether it could be transited on the Milwaukee Railroad, east of Marengo, that is one question, but this other one is a loaded question because he said, in other words, Mr. Engel, from a tariff point of view, all of this is available to you. Mr. Engel said it isn't.

I think it is a trick question.

Exam. Dishman: Mr. Engel has answered it if he said it isn't.

[fol. 4052] Mr. Torinus: He hasn't answered it yet. He

hasn't said it isn't. He is an expert, and can answer questions without Mr. Maguire's suggestion.

Exam. Dishman: Mr. Engel can answer. He is an expert.

The Witness: The thing that bothered me about the question was that it included both Washington and Oregon, and it included, as I understood the question, origins on our own railroad, as well as on the Southern Pacific, Union Pacific. If he would reframe it and separate the two, then I could answer it, but when you include the two together there isn't any answer to that.

By Mr. Torinus:

Q. Well, let me ask the question again and let us see if I can't ask a question that even Mr. Maguire will find unobjectionable, and that you can answer.

Mr. Maguire: That is a rather violent assumption, but go ahead.

Mr. Torinus: I think it is, too.

By Mr. Torinus:

Q. From a tariff standpoint, lumber originating in the territory in Washington west of Spokane reached over the route of the Milwaukee, or the route of the Milwaukee in connection with the Union Pacific, lumber in the State of Oregon originating on the Southern Pacific or Union Pacific at stations reached by those lines in connection with the routes of the Milwaukee through Avery, Idaho.

All of that traffic as shown on page 21, from a tariff [fol. 4053] standpoint, may be stopped in transit on your railroad east of Spokane, Wash.; is that right?

A. That is the same question that I answered a while ago to the effect that when you bunch the two together you cannot make a single answer. If you were to ask me specifically do you have a rate from Eugene, Ore., to Mitchell, S. D., on lumber, that could be transited to St. Marys, Idaho, I would answer that, but you come right back to the question that, or to the fact that these Oregon rates are not practical rates for transit purposes because of the destination territory.

Q. I asked you whether from a tariff standpoint lumber originating in the State of Oregon on the Southern Pacific could be stopped for transit on the Milwaukee Railroad east of Spokane. There is a simple answer to that question, "yes" or "no," isn't there?

A. I answered "yes," previously to that; yes, sir.

Q. That is also true of lumber originating in the State of Washington and Oregon on the U.P.; isn't that correct?

A. The transit privilege applies from—

Q. On your railroad east of Spokane?

A. Yes, sir.

Q. And that also applies to lumber originating on your railroad?

A. Yes, sir.

Q. So if you add the three together, as Mr. Tein has done [fol. 4054] on Exhibit 112, the answer is still "yes," isn't it?

Mr. Maguire: No.

Mr. Torinus: I am not asking you.

Exam. Dishman: Let the witness answer.

Mr. Maguire: I want to object to that. That is what I mean.

Exam. Dishman: We have an expert here on the stand.

Mr. Torinus: Mr. Examiner, I submit that this expert ought to be permitted to answer without benefit of coaching from counsel.

Mr. Maguire: My "no" was in the manner of an objection. I wasn't answering your question. It sounded that way, I will admit, but that is another loaded question, Mr. Examiner, where he says that those figures are correct in Exhibit No. 112. He has asked this question. He can argue from there.

Exam. Dishman: We have an expert here on the stand. Do you have an answer to that? Can you answer it?

The Witness: I can simply say that there are transit privileges on the Milwaukee in Idaho applicable in connection with rates from points in Washington and in Oregon.

By Mr. Torinus:

Q. As shown on page 21 of Exhibit 112?

A. As far as shown on page 21, I wouldn't accept that at all, because, as I previously stated, you are lumping them all together, and I wouldn't want to accept for a minute these footages as accurate.

Q. All right. That is enough. We will drop any further [fol. 4055] questions on your characterization of Exhibit 112.

I would like to call your attention to page 3827 of the transcript, and your testimony of yesterday, where you referred to Mr. Lear's Exhibit No. 124. You make this statement, after commenting on Mr. Nickels' Exhibit 129. You say:

"Our records disclose, as shown by Witness Nickels' Exhibit 129, that we received at Marengo during the months of February, May, August, and November, only 505 cars of lumber and related articles originating on the Southern Pacific and Union Pacific, and of this number only seven cars originated on the Southern Pacific in Oregon and ten cars on the Union Pacific Railroad destined to points in Official territory, i.e., the territory in which Mr. Lear's Exhibit No. 124 shows 47.314 percent of the lumber originated on the S.P. & S. terminates."

Do you recall that statement?

A. Yes, sir.

Q. Mr. Lear's Exhibit No. 24 does not purport to show where all of the lumber originating on the S. P. & S. terminates, does it?

Mr. Maguire: I think again the exhibit speaks for itself, Mr. Examiner.

Mr. Torinus: Let me ask this question before you answer that, Mr. Engel.

By Mr. Torinus:

Q. You were referring in reality to Exhibit 123, were you not?

[fol. 4056] A. There is an exhibit with a map and some carload shipment figures. I thought it was all one. I thought it was 124.

Q. I show you my copy of Exhibit 123.

A. That is the one I have in mind. It is this graph here, or chart.

Q. And that exhibit actually embraces only the eastbound lumber and forest products shipments involved in this case, and shown on Mr. Lear's exhibits, Exhibit 46, and Mr. Webb's Exhibit 47, rather than all of the originations of the S. P. & S.; isn't that correct?

A. Well, I had in mind that the breakdown of the S. P. & S. origins by the G.N. and N.P. routes was portrayed here, and that is exactly what I was referring to. In other words, the 47.314 represented the percentage of the S. P. & S. origin distribution by the foreign routes.

If I misunderstood it—

Q. It only shows the distribution insofar as the traffic involved in this case is concerned. It doesn't show the distribution with relationship to the total originations of the S. P. & S. For example, this case does not involve traffic terminating in California, for example. Neither does Exhibit 123; isn't that correct?

A. That is my understanding. It doesn't include California. Yes, I think I understood that, and that is what I had in mind, that it was this so-called movement over the [fol. 4057] G.N.-N.P. into that territory, and as compared with that we had this number of cars, 505 cars from corresponding or so-called competitive territory under the rates that you have set up here as traffic that we already had the rates on.

Q. In other words, you are not contending that 47.314 percent of the lumber originated on the S. P. & S. terminates in Official territory? That isn't your contention?

A. I simply accepted that figure as it was entered, and—

Q. That figure doesn't relate to the total origination of the S. P. & S.?

A. I think that is right.

Q. Now—

Mr. Maguire: Could I interrupt?

This is not an adverse comment, Mr. Torinus. Could it be understood, Mr. Examiner, that Mr. Engel's reference on page 3827 of the transcript to Mr. Lear's Exhibit No.

124 is now corrected so as to show reference to Mr. Lear's Exhibit 123 instead, wherever that number is used in the testimony?

Exam. Dishman: The record will so show.

Mr. Maguire: Thank you.

By Mr. Torinus:

Q. I would like to go, Mr. Engel, to your discussion with respect to the routing of the lumber moving eastbound transcontinentally to destinations in Western Trunk Line territory, and beyond, and particularly to your discussion of yesterday at pages 3831 and 3832 of the transcript where [fol. 4058] you say—and this is on page 3832:

"The fact of the matter is that rates on lumber to this entire midwestern area are named in Agent W. J. Sprueter's I.C.C. 1545, and that it contains specific routing through to each destination."

That testimony being given in connection with your statement that if the Milwaukee were successful in this case the Western Trunk Lines, particularly those in this case, would be accorded a haul under the tariffs from Minnesota Transfer to destination.

Mr. Engel, is there specific routing in connection with the transcontinental lumber tariffs beyond the Missouri River gateways to Official territory—beyond the Twin Cities and the Missouri River gateways to Official territory?

A. No, sir; I didn't say there was.

Q. I am asking you now if there is.

A. There is not. Between the Missouri River crossings and the Chicago or Great Lakes gateways, the routing is silent, or, you might say, is kind of open.

Q. It is wide open; is that right?

A. Yes, sir.

Q. It is also true between the Twin Cities and Chicago, Peoria, and St. Louis?

A. That is what I said, between so-called Missouri River crossings, which includes the Twin Cities.

Q. So that in the event the Milwaukee is successful in this [fol. 4059] case you would be permitted under the ruling

which you envision to handle traffic beyond Minnesota Transfer originating on the S. P. & S. and the lumber traffic, and turn it over to the C. B. & Q. at, let us say, Savannah, Ill., instead of the Twin Cities; is that right?

A. The routing would be open.

Q. The tariff would permit that?

A. They do today, and, as a practical matter, it is never used. I wouldn't say it is never used. As a practical matter, it is not used. The traffic through the Official Classification Territory originating on our own lines is, I would say, invariably delivered to either of these lines at Minnesota Transfer, where they are specified in the routing, and there would be no difference in this S. P. & S. rate application.

Q. Nevertheless, the routing in connection with the eastbound lumber to Official territory would be wide open, so that you would be at liberty to solicit traffic in that area so as to give the Burlington a short haul from Savannah, Ill., to Chicago; is that correct?

A. It is possible, but highly hypothetical, as far as the solicitation is concerned. We wouldn't solicit it.

Q. Of course, you would be at liberty to solicit it all the way to Chicago, which is what you would probably do; is that right?

A. We would solicit it—it would accord us as favorable a haul as possible.

[fol. 4060] Q. Now, the same thing applies with respect to lumber, which might be interchanged with one of the other western trunk lines in Des Moines; isn't that true?

A. That same pattern follows in connection with the rates to the Official territory as a whole, so that when I say between Missouri River crossings and eastern gateways, Peoria, or such others as can pick up such traffic, the routing is open.

Q. It is also true, is it not, Mr. Engel, that there isn't any specific routing east of the Twin Cities on class-rated traffic, and on commodities, generally?

A. That is true.

Q. In fact, the specific routing on lumber which you were at pains to mention yesterday in connection with movements to the Midwest and to the Southeast, is the exception to the rule rather than the rule; isn't that correct?

A. The lumber traffic is specific in its application, and I believe I have mentioned before—I didn't take pains in this case—I believe in this testimony, I believe I mentioned before the open application of rates on merchandise traffic generally. I said that that routing is distinct and separate from the lumber traffic. There is nothing to conceal on that.

Q. It is distinct and separate, and it is wide open and would enable you to solicit traffic away from these western trunk lines at junctions which would short haul them; isn't that correct?

[fol. 4061] A. The same answers on the lumber, as far as to enable us to solicit it from the practical standpoint. It is purely hypothetical.

Q. Now, I want to ask you a question or two with respect to Mr. Ehlen's testimony, and I am referring specifically to your testimony at page 3837 of the transcript.

You criticize an answer made in the affirmative by Witness Ehlen at page 3412 to the question whether rates on potatoes from Oregon Trunk lines apply via the U. P., Marengo, thence over to Milwaukee, and on the next page, transcript page 3838, you say that Mr. Ehlen offered no tariff authority to substantiate this statement.

Mr. Maguire: What page are you reading from?

Mr. Torinus: 3838 of the transcript.

By Mr. Torinus:

Q. You say further that "This question and answer was made in connection with Exhibit 84 and others, including Exhibit 88, showing certain movements of potatoes."

Now, I would like to call your attention, Mr. Engel, to Mr. Ehlen's Exhibit 91, which is one of Mr. Ehlen's routing exhibits showing rates on fresh fruits and vegetables, and specifically to Route 8-A, shown on page 2, page 2 of Exhibit 91, opposite a number of stations listed on the Bend branch of the U.P., and also to Note 32, on page 9 of Mr. Ehlen's Exhibit 91, and I will ask you if he has not introduced in the record specific tariff authority indicating

freight application of potatoes originating on the Bend [fol. 4062] branch of the U.P., which can move eastbound via the Milwaukee through the Marengo gateway?

A. Yes. That routing is O. K., but I don't understand that it is O. K. to Chicago, which is the point that I had in mind.

Q. It is the point that you had in mind, but Chicago is not mentioned by Mr. Ehlen in his testimony. Isn't that correct?

A. Yes, it is included by reference to Exhibit 88. As a matter of fact, that testimony, as I read it, picked up earlier, and it dealt first with Exhibit 88, which contained the list of the stations and included the nine cars to Chicago, so, naturally, I assumed he was dealing with the entire movement.

Mr. Rockwood: May I ask a question?

You realize he was rebutting evidence relating to rates on fresh fruits and vegetables to Sioux City, Iowa.

Mr. Maguire: It doesn't make any difference, Mr. Examiner, what he was rebutting. The question is what he said, and what the purpose of it was. The purpose of it doesn't have any bearing on this at all.

Mr. Rockwood: Through rates on potatoes apply from U.P. points on the Bend line via Marengo and thence Milwaukee to Sioux City, Iowa.

The Witness: Yes, sir; they do.

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: On the record.

[fol. 4063] Mr. Hillman.

By Mr. Hillman:

Q. Mr. Engel, I refer you to page 3862 of the transcript, and your testimony yesterday in which you state "An examination of our records discloses that there was a total of 14,250 cars of lumber, shingles, and other eastbound forest products passed Avery, Idaho, during the six months' period September, '54 to February 28, '55." And then you

state a certain number of those cars moved via Canton, S. D.

In your study did you determine how many of those 14,250 cars actually moved through Minnesota Transfer?

A. No, I did not do that.

Q. In other words, all you did was break out the cars that went through Canton, S. D., disregarding all other alternative gateways?

A. Yes, I was trying to develop information as to this Canton, S. D., routing. That was all I broke out of that figure.

Q. So as far as your study is concerned, the number of those cars that actually went through Minnesota Transfer is not known?

A. I don't know what it is, no.

Mr. Hillman: That is all.

Exam. Dishman: We will recess until 9:30 tomorrow morning.

(Whereupon, at 4:35 p. m., a recess was taken until Thursday, June 23, 1955, at 9:30 a. m.)

[fol. 4066]

Transcript of Proceedings—June 23, 1955

Exam. Dishman: The hearing will come to order, gentlemen.

Are you ready, Mr. Torinus?

Mr. Torinus: Yes.

H. O. ENGEL testified further as follows:

Cross examination (resumed).

By Mr. Torinus:

Q. Mr. Engel, I want to ask you a question or two about those 35,000 cars that we talked about yesterday, and that you mentioned on page 3825 of the transcript as having been recorded for transit with the Transcontinental Freight Bureau at Seattle during the year 1954.

How many of those two cars railroad ties?

A. I wouldn't know that.

Q. How many were poles for creosoting?

A. To shorten it up, I can simply say that I don't know as to the detail of any of that number. The number was furnished me by Mr. Leonard, superintendent of the Transcontinental Freight Bureau, as his best estimate of the number of cars of forest products recorded for transit during that year. It was approximately a third of his total recordings for transit and considered a conservative estimate of their recordings or their transit recordings during that year.

Q. By "forest products," you mean commodities class what?

[fol. 4067] A. By numbers, I couldn't tell you, but articles taking lumber rates or related articles under the lumber tariffs.

Q. Poles and ties?

A. It would include everything of that nature.

Q. Railroad ties?

A. Surely, if those were recorded for transit.

Q. How many of those cars originated on the S. P. & S.?

A. As I say, I don't have the detail as to the origin or the exact character of the commodities.

Q. And you don't know, then, I take it, how many of those cars were recorded for transit at stations on the S. P. & S.?

A. No, sir; I don't, but—

Q. Where did you get this information?

A. From Mr. G. L. Leonard, superintendent of the Transcontinental Freight Bureau in Seattle.

Q. Do I understand that isn't from some authorized publication, but is just his estimate that he gave you?

A. Yes, sir; that is correct.

Q. You didn't check any of the basic data?

A. No, sir.

Q. You didn't look at any of the records of the Transcontinental Freight Bureau to see what the basis for his estimate was?

A. I didn't, and for the very reason that I thought and felt that it would be objectionable to him and to the other lines, and even possibly to shippers, to delve into their [fol. 4068] operations, their commercial business, and I didn't think it would be in order, but I went to what I thought was a reliable source, and that is it.

Q. In other words, you have no way, then, yourself, of checking the reliability of that estimate by looking at the basic records?

A. Nothing other than my general knowledge of the extent to which transit is practiced out there, and it seemed to me that it was a fairly safe estimate, and, too, I took into account the practice on our own railroad, so that it didn't seem to me at all out of line.

Q. We can't check that estimate either by, as you would put it, delving into the records to see how many of those cars originated on the Milwaukee, for example, or were recorded for transit at stations on the Milwaukee; is that right?

A. I don't know whether our company would object to it or not. If it is necessary, I think they would let you have it, sure.

Q. You don't know whether the Southern Pacific, for example, would object, or the Union Pacific?

A. No, I don't.

Q. The sum and substance of it is, then, Mr. Engel, that this figure of 35,000 cars is an estimate that you got from someone else. It is not your estimate?

A. That is true.

Q. Of course, you can't swear to whether or not that [fol. 4069] 35,000 car figure is correct?

A. I said approximately. I couldn't swear to it; no, sir.

Mr. Torinus: Mr. Examiner, I will have to move that all reference to this figure of 35,000 cars be stricken from the record. I didn't realize that it was a figure that Mr. Engel couldn't support.

Mr. Maguire: Mr. Examiner, before any ruling is made upon that motion may I ask a couple of question of Mr. Engel?

Exam. Dishman: All right.

Mr. Maguire: Mr. Engel, in the ordinary course of business do all of the carriers who are served by the Seattle office of the Transcontinental Freight Bureau, frequently make inquiries during the course of investigations with regard to rate matters and presentation before the Commission?

Mr. Torinus: I object to that as no foundation laid. He doesn't know what inquiries we made of some third party.

Mr. Maguire: You don't know whether he does or not.

Exam. Dishman: Let the witness answer.

The Witness: Yes, and, furthermore—

Mr. Torinus: I submit the question has been answered. He said "yes."

Mr. Maguire: Let him explain it.

Exam. Dishman: Go ahead.

The Witness: There is a prorating of expense of actual transit operations of the Bureau, and I believe it would [fol. 4070] come pretty close to a figure. We watch that, to see just how the operations or the expense of it is distributed.

Mr. Maguire: And at the meetings of the North Pacific Coast Freight Bureau does Mr. Leonard frequently at-

tend the meetings and give general advice to the lines as a whole, or in answer to individual questions as to the workings of the Bureau and the records of the Bureau?

The Witness: Yes, sir; he does, and he is frequently in the position of asking for additional help, which is submitted to the lines for approval, so that those are constant operations.

Mr. Maguire: I submit, Mr. Examiner, the motion to strike is not well taken because Mr. Leonard is an advisor, and is really, almost, what might be called a joint representative of all the lines, and so that this is an investigation made in the ordinary course of business with regard to proceedings of this kind.

Mr. Torinus: I would like to ask one or two questions.

By Mr. Torinus:

Q. Mr. Engel, you don't mean to say the expenses of the Bureau are prorated by commodities, do you?

A. The expenses of the transit operation is prorated according to the respective lines' transit account; yes, sir. That is my understanding.

Q. Not by individual commodities?

A. No, sir; it is by transit account.

Q. Isn't it a fact, Mr. Engel, that if Great Northern, for [fol. 4071] example, went to the Bureau and asked Mr. Leonard for information with respect to the transit accounts of another carrier, such as the Union Pacific and the Milwaukee, he would not be authorized to give us any information without the consent, the specific consent of that carrier?

A. I believe that is correct.

Q. Now, if we asked about the transit account of a particular shipper on the line of another carrier would Mr. Leonard be authorized to give that to us without the shipper's consent?

Colloquy Between Examiner and Counsel

Mr. Maguire: Before you answer that, Mr. Engel, I object to that question, Mr. Examiner, because the evidence does not show that any inquiry was made by Mr. Engel

as to any specific commodity—as to any specific branch of the general commodities within the class of lumber and forest products, and he has already testified he made no inquiry about any particular line or any particular shipper.

Mr. Torinus: I am just testing his qualifications to put in this estimate of someone else.

Exam. Dishman: The witness may answer, if he knows.

Mr. Maguire: May I be heard further on that?

Here is the thing that I have in mind, Mr. Examiner: This question has no bearing whatever upon Mr. Engel's qualifications to accept or reject this estimate because he did not make inquiry of Mr. Leonard, and did not feel at liberty to make inquiry of Mr. Leonard as to the transit ac- [fol. 4072] counts of any one particular carrier, and so that the question of whether Mr. Leonard would give that information under the circumstances has no bearing whatever upon the answer to this question.

Mr. Torinus: This is just preliminary.

Exam. Dishman: That may be true. I don't now how relevant it might be.

You may answer, if you know.

The Witness: I don't believe that he would be at liberty to divulge information of a particular shipper unless that shipper authorized it. I wouldn't expect him to.

Mr. Torinus: Now, Mr. Examiner, the question before us here is not whether Mr. Engel was willing to accept or reject Mr. Leonard's estimate of 35,000 cars, but whether this Commission should accept the unsworn estimate of somebody who is not here, that is not available for cross-examination, put in through the mouth of Mr. Engel, who hasn't any of the supporting detail, who hasn't any of the facts which we regard as material with respect to operations on the S. P. & S. transit accounts, with respect to the particular items involved.

It seems to me that not only is that the rankest form of hearsay, but it is clearly inadmissible.

These records may be kept by Mr. Leonard in the regular course of his business, but Mr. Leonard isn't here. Mr. Engel is here, and all he is putting in is an estimate that he got from Mr. Leonard, based upon some records he [fol. 4073] hasn't seen, which no one is going to have an

opportunity to verify, and which he has no right to see, and which apparently we have no right to see.

I certainly ask that all evidence with respect to those cars and the number of such cars as may have been recorded for transit be stricken.

Mr. Maguire: Mr. Examiner, in reply to that I would make this comment, that Mr. Leonard, as has been shown by the testimony here, is the manager of a bureau which is a joint agency of all of the railroads involved in this proceeding, as well as other railroads. When I say "other railroads involved here," I mean of the railroads serving the Pacific Northwest, within that territory; that Mr. Leonard frequently is called upon to furnish general information to the members of the Bureau, either at meetings or individually; that this inquiry was made in the ordinary course of business, and the reply was given in the ordinary course of business, and that—

Mr. Torinus: Just a minute.

Mr. Maguire: I didn't interrupt you. Will you be quiet until I get through?

Mr. Torinus: The inquiry was in this case not in the ordinary course of Mr. Engel's business.

Mr. Maguire: Are you through with your interruption? You might at least give me the same courtesy that I gave you.

Exam. Dishman: Proceed, Mr. Maguire.

Mr. Maguire: Where was I before Mr. Torinus butted in there?

[fol. 4074] (Record read.)

Mr. Maguire: —and this ordinary course of business as was brought out by my questions of Mr. Engel includes inquiries made in connection with litigation before this Commission and other commissions. That was Mr. Engel's answer, and do you deny that Mr. Engel said that?

Mr. Torinus: I deny it is any of Mr. Engel's business how many cars were recorded for transit on the Southern Pacific.

Exam. Dishman: I think we have had enough on that, gentlemen.

I will overrule the motion and what Mr. Torinus has said about it, of course, will be considered when due weight may be given.

Mr. Torinus: I think we may have an exception to the ruling and present the matter to the Commission?

Exam. Dishman: Exception noted.

Mr. Golden: Mr. Examiner, I would like to make it clear that I join in Mr. Torinus' motion to strike the reference to the 35,000 cars, and any testimony that is based thereon.

Mr. James: I join in the motion.

Mr. Golden: On the ground it is hearsay, not the best evidence, and the most flagrant violation of the rules of evidence.

Mr. James: For the additional reason it has no probative value because even this hearsay estimate contains no detail at all as to the origin of these cars.

Exam. Dishman: The Commission will determine what weight, if any, should be accorded this testimony.

[fol. 4075] By Mr. Torinus:

Q. Now, Mr. Engel, going to another phase of your testimony, on pages 3828 to 3829 of the transcript you commented upon the fact that in connection with your rates via Marengo transit privileges were not applicable if taken on the Southern Pacific and the Union Pacific prior to the interchange of the traffic to you at Marengo; is that right?

A. Yes, sir.

Q. Now, isn't it true that in connection with any traffic interchanged from the Union Pacific to the Great Northern originating in the same territory, similar restrictions apply so far as transiting may be desired to be taken on the Union Pacific is concerned?

A. I don't know.

Q. You haven't checked the tariffs to see if the Union Pacific similarly restricts its joint rates with the Great Northern?

A. No.

Q. Mr. Engel, of course we want to avoid to the extent we can any surrebuttal testimony, so I would like you to examine tariff I.C.C. No. 896. It is W. R. Watson's No. I.C.C. 896, entitled "Local Freight Tariff 34-A, authoriz-

ing dressing, grooving, kiln drying, manufacturing, milling, painting, priming, scoring, sorting, storage, and staining in transit of lumber, shingles, and certain other related articles in British Columbia, California, Idaho, Montana, Oregon, and Washington," and then see if you can answer my question.

[fol. 4076] A. I am familiar with this tariff, but, first, you would have to have the rates, and I haven't knowledge of the rates from Union Pacific points in connection with the Great Northern, so that while they may have a restriction I know they have a restriction in their general restriction to confine the transit to via Huntington, which would mean that, for example, it wouldn't apply via Marengo, but as far as the rates to the Great Northern are concerned, you would have to know the rates, themselves, before you could say that they have a restriction via that route.

Q. The Great Northern does not have rates with the Union Pacific in which transit would be authorized on the Union Pacific in connection with shipments interchanged to the Great Northern at junctions at Spokane, for example? Isn't that correct?

A. I am sorry, but I don't know that they have got any rates. The Union Pacific, with the Great Northern, and so—

Mr. Maguire: Could I ask—

Mr. Torinus: No, you can't interrupt because I haven't finished with my questioning.

Mr. Maguire: I was trying to help you this time because I know you want an answer to that.

Let me go off the record a minute and you can see whether you want to object to this.

Exam. Dishman: All right.

(Discussion off the record.)

[fol. 4077] Exam. Dishman: On the record.

By Mr. Torinus:

Q. Will you tell me, Mr. Engel, what item 3515 of Watson's tariff I.C.C. 896 says?

A. That is the item that I referred to a while ago when I said I am generally familiar with this tariff in that it

limits the application of transit on the U.P. to traffic handled by them via Huntington. It simply reads "Applies only on shipments routed beyond transit point via Huntington, Ore." That appears—

Q. If there were rates from Union Pacific origins in connection with a route through Spokane, thence Great Northern, joint rates on lumber and related articles, this item 3515 which you have just referred to would restrict the application of transit so that it could not be taken at points on the Union Pacific; isn't that correct?

A. Not in all cases because I don't see that that particular item is referred to in the main body of the tariff opposite the Union Pacific transit application.

For example, Item 2650 doesn't refer to item 3515. Item 2700 does not.

Q. What do you mean, not in all cases? I don't understand that.

A. You see, the way this tariff is built it has the transit application at stations on the Union Pacific in this section, on page 30, for example.

Mr. Maguire: Name the section of the item number, [fol. 4078] please, if you will, to keep the record straight.

The Witness: I don't know that it is in a section. It is the main body of the tariff. Isn't numbered by sections, but item 2650 applies at stations named in index numbers. That is the general item on the Union Pacific, and then it says "when destined to or beyond." It doesn't have reference to item 3515, so it would take a more careful check than just an offhand agreement with what you say.

There may be other provisions, but I would have to check it.

By Mr. Torinus:

Q. The sum and substance of it is that you don't know whether or not the Union Pacific restricts any joint rates which it may have with the Great Northern so as to prevent transit being taken at points on the Union Pacific in the same manner that your rates with the Union Pacific are restricted?

A. I do not know definitely.

Q. Now, Mr. Engel, I want to refer you to your testimony at 3864 of the transcript, given on June 21st, particularly this sentence, and I quote:—

Mr. Maguire: What page?

Mr. Torinus: 3864.

"A shipper on the S. P. & S. in Oregon, however, must choose one of three lines over which a shipment will move east of Spokane, Wash., and once on either the Great Northern or Northern Pacific, he has no opportunity to [fol. 4079] divert to destination on the other, nor to destination on the Milwaukee."

That is the end of the quote.

You were comparing the situation of a shipper on the S. P. & S. with that of a shipper on the Milwaukee, Great Northern, or Northern Pacific in Western Washington who, you say, on page 3864, "could start out a car on the origin line, consign it in the usual manner to Minnesota Transfer, Minn., or other eastern reconsigning point, and divert to consignee on the origin line, or on either of the other two lines west of Minnesota Transfer or to any point east of the original billed destination at a single factor through rate."

Now, this disadvantage, so-called, to which you refer, of a shipper on the S. P. & S. in Oregon, in comparison with a shipper on the Milwaukee, Great Northern, or Northern Pacific and Western Washington, would not be removed if the Milwaukee's complaint is successful in this case; is that right?

A. No, sir.

Q. You mean your answer "no, sir" is that the disadvantage would not be removed?

A. Yes, sir.

Q. Then the answer is "yes," the disadvantage would not be removed; is that correct?

A. Yes, sir; we do not contemplate crossover rates under this complaint, to the same extent. We would not have the same application even then. There would still be a disability.

[fol. 4080] Q. I would like to ask you a few questions about Canton, S. D., which you referred to in your testi-

mony, and preliminary to those questions I would like to show you and place before you a copy of your Exhibit 9. which is a map of the Milwaukee Railway System, and which you introduced in evidence.

You mentioned, Mr. Engel, on page 3862 of the transcript, 265 cars passing Avery, Idaho, in the six months' period September 1, 1954, to February 28, 1955, were consigned to or via Canton, S. D.

What records did you examine to determine that information?

A. The manifests of the transportation department, manifests which show the destination and actual billing of the cars.

Q. What does the manifest consist of? I am not sure that I know what is on that document.

A. Well, there are so-called manifests issued on every car that originates out of the West Coast, and each division reports that into the superintendent, and he had a whole drawer full of them, and I personally examined each one of them for that period, and took off each one of those cars that was consigned to Canton, or to some point beyond via Canto and listed them.

It should be entirely complete.

Q. You didn't examine the waybills, themselves?

A. No, sir; I did not.

Q. So, of course, if Canton in some instances were in- [fol. 4081] dicated on the waybill but not copied onto the manifest, they wouldn't show up in your study?

A. I doubt it, because these manifests are really records showing the actual movement, or the movement on which notice is given of the movement, and I think it is a true reproduction of the information from the waybill itself.

Q. The manifest disclosed the movement, but my point is it is possible they might not in all cases disclose the actual information on the billing?

A. Accidental omission, possibly.

Q. How many of those 265 cars terminated at Canton?

A. I may have that.

I doubt if there was more than two or three actually terminated there.

Q. Well, as a matter of fact, if your testimony is correct, on pages 3862 and 3863, not one of those cars terminated at Canton; isn't that true?

A. I will accept that correction. As I recall it, I guess there were none, so I will accept my correction on that. They were all billed through. They all moved beyond, then. That escaped me for a moment, but checking the records was accurate enough.

Q. Did you study the billing of carloads of these commodities, lumber and forest products, to any other diversion or reconsignment point besides Canton, S. D.?

[fol. 4082] A. No, sir.

Q. So when you say that the movement—when you say on page 3862 that the "use of Canton is relatively small," you are not referring to Canton in comparison with some other diversion point?

A. Yes, sir; I am. The great bulk of the cars are billed or consigned to Aberdeen, S. D., or the Twin Cities for diversion purposes. This Canton, S. D., routing is used relatively small and that is based on a very good knowledge of what has been going on for years and does go on today.

Q. You didn't take off from these manifests the cars consigned to or via Aberdeen, S. D.?

A. No, sir.

Q. So you have no information as to the actual number of cars consigned to or via Aberdeen in that period?

A. The only information I have is my general knowledge of the practice, and it is pretty well founded.

Q. Let me ask you this: How do shippers happen to pick Canton as a diversion point? Do you know? In other words, why don't they pick Madison or Mitchell or some other point? How have they come to utilize Canton?

A. I don't know just where this originated, whether the shippers selected that voluntarily, or whether some of our people suggested it, so that when you say how they come to pick it, I couldn't say definitely.

[fol. 4083] Q. Well, at least when the Milwaukee is engaged in soliciting the lumber traffic, they solicit cars to or via Canton; is that correct?

A. Not to my knowledge; no, sir. We do not.

Q. You say you don't know whether your people suggested Canton. They may have?

A. Now, when you ask me if we would solicit routing by Canton, I tell you we do not.

Q. You do solicit traffic from a considerable number of shippers who utilize Canton?

A. We solicit business from all shippers out there, some of which use Canton.

Q. Now, how did you happen to study the consignments to or via Canton for this six months' period?

A. How did I happen to?

Q. Yes.

A. It was simply because it was brought up at, I believe the Portland hearing, and quite a lot to do was made about it, and questions asked as to service, etc., and I felt it was necessary to explain just how much that was and what it really amounted to.

Q. So you made that study, then, for the purposes of this case?

A. Yes, sir.

Q. And it took place during a period when this litigation was pending, and after some questions had been asked [fol. 4084] about the Canton route?

A. Yes, sir. I wanted to get as late a current picture of this Canton routing as possible, and as a result of this proceeding.

Q. Now, it happens that the period you selected for your study commencing September 1, 1954, and ending February 28, 1955, was the six months' period immediately following the end of the lumber strike on the Pacific Northwest; is that correct?

A. If it was it had no connection with my investigation.

Q. That is true, isn't it? The lumber strike was over about the first of September, 1954?

A. I don't know for sure.

Q. That is a matter of common knowledge?

A. I don't know for sure when it ended.

[fol. 4085] Q. Did it end in January, 1955?

Mr. Maguire: Mr. Examiner, for that point I am willing to stipulate that the lumber strike ended somewhere in

the early part of September, 1954, rather than beat this to death.

Mr. Torinus: Thank you, Mr. Maguire.

By Mr. Torinus:

Q. Wouldn't it be likely that immediately after the strike, Mr. Engel, there would be a seller's market for lumber in the Pacific Northwest, lumber shipped from the Pacific Northwest?

A. I don't know.

Q. In other words, immediately after a shut-down, you would be more apt to come into a period when cars were—when lumber was in relatively short supply and greater demand than some other period?

Mr. Maguire: That question has been answered, Mr. Examiner. The witness said he didn't know. It has been merely restated.

Exam. Dishman: Is that your answer?

The Witness: Yes. I am afraid that I would be having to take into consideration what the market actually was. If there was a surplus on the coast, I don't know there could be a seller's market. I don't know, because of conditions that would affect a question of that kind.

By Mr. Torinus:

Q. If there were a seller's market, it certainly is likely there would be a fewer number of roller cars than in a period when you had a buyer's market; isn't that true? [fol. 4086] A. I believe so.

Q. Now referring to Exhibit 9, Mr. Engel, which you have in front of you, Canton, South Dakota is 180 miles south of Bristol, South Dakota, on the main line of the Milwaukee; isn't that correct?

A. Yes, sir. I guess that is the mileage. I haven't checked the mileage, but approximately that.

Q. So that my question will be entirely clear, it is 180 miles south of that main line point between Spokane and the Twin Cities?

A. That is one way of locating it, yes, sir.

Q. So that any movement via Canton, South Dakota, and thence back to Minnesota Transfer would involve an out-of-line movement of somewhere in excess of 300 miles; isn't that correct?

A. And back to where?

Q. Minnesota Transfer.

A. I wouldn't agree with that. You mean that we would take a car from Canton back to Bristol to get it to Minnesota Transfer?

Q. No. I said that any movement over your line from the Pacific Northwest to Minnesota Transfer via Canton, South Dakota, Canton being 180 miles south of your main line, would involve an out-of-line haul of somewhere around 300 miles or more; isn't that correct?

A. I guess so, yes. I guess that would be about right.

Q. Now, you expressed some doubt when I questioned [fol. 4087] you before about Canton as to whether Canton was intermediate to Duluth, Minnesota, from the Pacific Northwest.

Mr. Maguire: Just a moment, before that question is answered. You say you questioned him before. Do you mean today, upon his testimony being given here?

Mr. Torinus: No. I mean his testimony at some other stage of the hearing.

Mr. Maguire: I am objecting to any cross examination of testimony given by the witness at another hearing. They had their opportunity for cross examination at that time.

Mr. Torinus: I am not cross examining him about that statement. I am—that is simply preliminary. I am asking him if now he has any doubt as to whether or not Canton, South Dakota is intermediate to Duluth, Minnesota, from the Pacific Northwest.

Mr. Maguire: I am making the same objection that this is improper cross examination.

Exam. Dishman: The witness may answer.

The Witness: There isn't any doubt in my mind, as far as treatment of Canton, South Dakota as intermediate to Duluth on shipments going beyond Duluth to higher rated destination territory. I would also like to add to that, as far as Minneapolis and Twin Cities is concerned.

By Mr. Torinus:

Q. If Canton, South Dakota is intermediate to Minneapolis and to Duluth on shipments going beyond those [fol. 4088] points, is it not?

A. I qualified it for the reason that there are certain routes beyond Canton that would pull through high rated territory, and I don't want to get in the position of saying that the rates to Duluth or Minneapolis are applicable via such routes, but to points beyond, it can pull-through those routes or it could go back and it could go north from Canton and avoid the higher rated territory, so that we do treat it intermediate by one route or another.

Q. Would you say that Canton, South Dakota, is not intermediate to Duluth, Minnesota, or Minneapolis, Minnesota; is that your testimony?

A. No, sir, it is not.

Q. That is not your testimony?

A. My testimony is that it is intermediate in all cases beyond Duluth and the Twin Cities, and by all routes where it clears an intermediate territory. It is also intermediate to Minneapolis and Duluth via certain routes.

Q. I see. Now, that means, of course, that every shipper on your line in the Pacific Northwest that routes a car to or beyond Minnesota Transfer, or Duluth, has the right to specify routing via Canton, South Dakota; is that correct?

A. Yes, sir.

Q. Does he also have the right, Mr. Engel, to specify routing via Bristol and Canton?

[fol. 4089] A. He has that right, but, of course, if he should do so, he would foreclose the opportunity—let me slow down here a minute. If he does route it via Bristol, he would foreclose the opportunity of diverting it back again by Bristol, as a directly back haul would be involved.

Q. Then if I understand your testimony, he could route a shipment via Aberdeen, thence Canton, Bristol, Minnesota Transfer, or he could route a shipment via Bristol and Canton and specify as a destination Minnesota Transfer or some point beyond, and the Milwaukee would take it beyond Canton over some route other than Bristol, having gone through Bristol on the way to Canton; is that correct?

A. I lost you. Would you mind reading it, please?

(Question read.)

Mr. Torinus: That question, I will admit, isn't very clear.

The Witness: Thank you.

Mr. Torinus: I will withdraw the question and start over.

By Mr. Torinus:

Q. Any shipper in the Pacific Northwest can specify routing to Minnesota Transfer via Bristol and Canton; is that right?

A. Yes, sir.

Q. Or beyond Minnesota Transfer?

A. Yes, sir.

Q. And any shipper in the Pacific Northwest can specify routing to Minnesota Transfer or beyond via Aberdeen, Canton, thence Bristol?

[fol. 4090] A. He can, but I have never seen a case like that.

Q. Now, in every case where Canton routing is specified, and Bristol is also shown in the route, that would entail movement over that branch line of yours from Bristol on the main line, between Bristol on the main line and Madison, South Dakota; isn't that correct?

A. That is correct.

Q. Isn't that the line over which Mr. O'Toole testified you maintain twice-a-week service?

A. I don't recall it.

Q. Do you know whether or not you have twice-a-week service over that line?

A. No, sir, I do not.

Q. You don't know what service you have?

A. No, sir.

Q. Now, you mentioned on page 3862 of the transcript that "the consignment of cars to Canton is done in the same manner as has been done for years in the consignment of cars to Aberdeen, South Dakota, Minnesota Transfer, or other points in that section of the country for diversion purposes."

Isn't there a vast difference between consigning a car to Aberdeen, which is on the main line and on the direct route from Spokane to Minnesota Transfer, and consigning a car to Canton, South Dakota, which is 180 miles south of the [fol. 4091] main line, and not on a direct route to Minnesota Transfer?

A. I don't understand the vast difference. Each one of them is a diversion point. It is a potential diversion point, and in that way there isn't any difference.

Q. The vast difference is in the physical handling based on the geographical location of those points?

A. There is a difference in the haul and a difference possibly in the particular part of the country where they get into, but they are still a diversion point and it is the same end objective that the shipper is reaching to get beyond those points.

Q. Except in the case of Canton, South Dakota, he would necessarily be interested in slow service; isn't that true?

A. Strange as it may seem, some of our shippers out there think that Canton, South Dakota is faster service.

Q. What other reason would you have as a shipper for selecting Canton, South Dakota, as a diversion point in preference to Aberdeen, South Dakota?

Mr. Maguire: Just a moment, Mr. Examiner. I think counsel is getting rather far afield, because he is trying to theorize as to what might be going through Mr. Engel's mind if Mr. Engel were somebody else.

Mr. Torinus: Mr. Engel, I think, can take care of himself.

Mr. Maguire: That doesn't answer my objection. He may be able to take care of himself. I am talking about your question.

Exam. Dishman: What is the purpose of the question? [fol. 4092] Mr. Torinus: The question is to bring out, Mr. Examiner, that Aberdeen, South Dakota, on the main line in South Dakota, is directly intermediate to the entire United States, east and south of Aberdeen, and that a car consigned to Aberdeen on the main line, which is on a direct route, would serve all the purposes of a shipper, as well as consigning a car to Canton, South Dakota, except the purpose of delay, and I think that that is an important point in this case, because it has been brought out that Canton,

South Dakota, is an authorized diversion point on the Milwaukee on shipments moving to or by Minnesota Transfer, and that it is utilized.

Mr. Maguire: Mr. Examiner—

Exam. Dishman: I was going to say: isn't there a lot in the record already covering that?

Mr. Torinus: Not from Mr. Engel. This is the first time at this particular hearing that he testified on the applicable routing via Canton, saying that the routing was applicable via Canton to Minnesota Transfer in Duluth, and it is the first time that he testified as to the utilization of the Canton route.

Exam. Dishman: I mean, just in this series of cross examination, hasn't that been brought out?

Mr. Rockwood: Not from Mr. Engel.

Mr. Torinus: Not from Mr. Engel, no.

Mr. Maguire: I might add, Mr. Examiner, that regard- [fol. 4093] less of whether it was brought out from Mr. Engel before, it has no bearing upon the issues in this case in any event. Mr. Torinus, by throwing slurs upon the existence of more than one diversion point thereby is casting mud upon his colleague, sitting to his right, the railroad of Mr. Golden, the Northern Pacific, who have the same sort of arrangement as has been testified here through the station—

Mr. Torinus: That isn't—

Mr. Maguire: Let me finish a minute.

Mr. Torinus: That isn't the evidence—

Mr. Maguire: Stop your interrupting.

Mr. Torinus: I object to your characterizing the evidence, and I am asking Mr. Engel about Canton.

Mr. Maguire: I am going to mention this in spite of your trying to drown me out. Mr. Torinus has been throwing mud upon his own colleague in this case—

Mr. Torinus: Just a minute, Mr. Examiner—

Exam. Dishman: That is not involved. Let's don't get off into that.

Mr. Maguire: All right. I just wanted to make it clear he is befouling his own knees here.

Mr. Torinus: May I have an answer to the question?

Exam. Dishman: Do you know what the question is? Do you understand the question?

The Witness: No, sir, I don't any more.

[fol. 4094] Exam. Dishman: It is so far back, I doubt if the reporter could find it.

By Mr. Torinus:

Q. Let me reframe the question:

Can you conceive, Mr. Engel, of any purpose in utilizing Canton, South Dakota, as a diversion point in preference to Aberdeen, South Dakota, which is on your main line, except the purpose of delay?

Mr. Maguire: As to that, Mr. Examiner, I object to that, because Mr. Engel has testified merely as to tariff routes, and as to movement over that route. Now as to why it moves over the route and what is in the shipper's mind when he does it is something entirely beyond the purview of his direct examination.

Exam. Dishman: Well, I don't know how relevant it might be, but the witness may answer.

The Witness: As I said a little bit ago, some shippers have indicated they find Canton, South Dakota a faster route for their purposes.

By Mr. Torinus:

Q. Faster than Aberdeen?

A. Yes, sir—not faster than Aberdeen, but faster than Minnesota Transfer.

Q. I asked you about Aberdeen.

A. I can't say that they would consider it faster than Aberdeen, because it moves right through Aberdeen.

Q. Why would they specify Canton, South Dakota in [fol. 4095] preference to Aberdeen? That was my qeustion.

A. I don't know, unless it becomes a habit with them.

Q. A habit probably results from the delay in shipments necessitated by the movement down to and through Canton; isn't that correct?

Mr. Maguire: If you know.

The Witness: I don't know.

By Mr. Torinus:

Q. Mr. Engel, you have referred to Canton, South Dakota, as a gateway?

A. My definition of a gateway probably isn't too accurate, but it is a junction with another road, or a point of divergence. The term "gateway" is used pretty broadly in my sense.

Q. Canton is not a junction point between the Milwaukee and any other line, is it?

A. It is a point of divergence on our own line.

Q. It is a point on the branch line extending south from Bristol and also on another line, extending westward—another line of the Milwaukee extending westward through Canton to Rapid City; isn't that right?

A. It is a focal point there, lines going in all directions, north, south, east and west.

Q. Well, it is a strictly local point served by no other railroad; isn't that true?

A. Yes.

Q. You have got a lot of other local points down there [fol. 4096] in that same territory which aren't served by any other line. I guess this map of yours just shows the Milwaukee Railroad, but for example, would you characterize such points as Madison, South Dakota as a gateway?

A. I guess I would.

Q. Mitchell?

A. As I say, my use of the term "gateway" is rather stretched. I would probably characterize Mitchell as a gateway. It is a gateway to certain points, sir.

Mr. Maguire: Mr. Examiner, I don't find any reference in this particular testimony which is under cross examination here where the term "gateway" is used.

Where do you find it, Mr. Torinus?

Mr. Torinus: I find it on 3862, in this sentence: "Use of Canton, South Dakota, is however, relatively small, and the actual movement through that gateway—".

Mr. Maguire: That is what you are beating to death. Thank you.

Mr. Torinus: That is Mr. Engel's testimony.

By Mr. Torinus:

Q. Would you refer, Mr. Engel, to Spencer, Iowa, as a gateway?

A. No. I don't believe I would.

Q. Tripp, South Dakota?

A. Those are points that there are no diverging lines. I don't think I would.

[fol. 4097] Q. There are diverging lines at Tripp?

A. Where is Tripp?

Q. Right here.

A. I don't believe I would, but then, as I say, it is a pretty undefined term in my language.

Q. Well, now, under the liberal routing in your Milwaukee tariff, your railroad holds itself out to provide out-of-line service to and beyond Minnesota—on shipments consigned to and beyond Minnesota Transfer, not only through Canton, South Dakota, but through almost any number of these little towns in South Dakota; isn't that correct?

Mr. Maguire: Just a moment. I object to counsel including in his question the term "liberal routing" because there is no testimony other than counsel's own insinuations that it is any more liberal than the routing of the Northern Pacific, for example, through Oaks.

Exam. Dishman: Have you testified that the routing was liberal?

The Witness: No, sir.

Mr. Maguire: You can call it liberal if you want to, but I don't want the witness to swallow your conclusion in his answer.

Mr. Torinus: He can qualify his answer. You are suggesting that he qualify it.

Mr. Maguire: I am suggesting that you are asking a [fol. 4098] slick, tricky question.

Exam. Dishman: Let the witness answer. You can qualify your answer.

The Witness: I could simply state that we don't have a so-called interior routing restriction in our tariff as, for example, does the Great Northern, so that it would be a matter of rule of reason as to whether a point was inter-

mediate and as to whether a particular rate could be protected via a certain route, if that answers your question.

By Mr. Torinus:

Q. That rule of reason under no internal ruling in the Milwaukee is the rule of reason which your railroad would apply; is that correct?

A. That is right.

Q. Looking again at your exhibit No. 9, Madison, South Dakota, which is a considerable distance south of your main line, is regarded by your railroad as intermediate to Minnesota Transfer; is that correct?

A. Where is Madison?

Q. Here it is.

A. That is right.

Q. Mitchell, South Dakota?

A. Via certain lines, yes, sir. For example, if it came via Bristol, it couldn't go to Mitchell and then back to Minnesota Transfer, but if it came down the line from Aberdeen to Mitchell, I believe we would so interpret it as being intermediate.

[fol. 4099] It does not traverse any part of the line that it has traversed coming into Mitchell.

Q. That is true also of Sioux Falls, South Dakota, a considerable distance south of your main line?

A. Yes. We could get into Sioux Falls and then go on to the transfer at Duluth.

Q. And true of all of these little points down here on your line, from Woonsocket over to Sioux Falls, for example, on Exhibit 9?

A. Yes, sir.

Q. To shorten this up, isn't that true of a great many other little towns there on your railroad in South Dakota?

A. As long as they are intermediate.

Q. And every shipper in the Pacific Northwest, now, if he so desires, can route traffic via those points to Minnesota Transfer or beyond—route lumber?

A. There are a lot of considerations in that. If we don't have an agent there, if we don't have a terminal. He can do it, but as a practical matter it isn't done.

Q. That is the routing that you proposed to establish from origins on the SP&S System in connection with the Milwaukee, should you be successful in this case?

A. I can't say as to that. It may be that we will want to put in an internal routing guide ourselves, but as to that, whether it would carry with it—as I understand our complaint—

[fol. 4100] Q. Well, now, let—

Mr. Maguire: Let him finish.

Exam. Dishman: Go ahead.

The Witness: As I understand our complaint, we are simply proposing establishment of the rates to points on our own railroad, and to points on connecting lines via the established connections with those other lines.

Now as to this interior routing, it is entirely apart, and I don't think we have gone into it in the complaint, and if it should appear and develop that this Canton, South Dakota routing is straining the intermediate application, or is abusing the practice of consigning shipments in any respect, we may decide to put a restriction in the tariff that would confine the rates so that they wouldn't apply in that manner, and we would be at liberty to do it from our own origins as well as the SP&S. We are not abridging any right to do that in this complaint.

Q. Of course, until such time as you would choose to do that, the routing would be wide open?

A. Yes.

Q. Through those points?

A. Yes, sir.

Q. You haven't chosen to do that from your own origins in the Pacific Northwest?

A. We have not, and as I stated, by investigation of this [fol. 4101] Canton, South Dakota routing, it developed that it has dwindled to a point where it isn't serious at all, but should it develop, we would be in a position to correct it by tariff amendment.

Q. Of course, if you did correct it by tariff amendment, your point is that that it would be a matter entirely within your control?

A. Yes, sir.

Q. Now, am I mistaken in my understanding that throughout this case you have been stating, particularly in response to questions from these Western Trunk Line lawyers, that you propose to establish from SP&S origins, should you be successful, the same rates and routes as you now have from your own origins in the Pacific Northwest?

Mr. Maguire: There was never any statement of that kind.

Mr. Torinus: I am asking him.

Mr. Maguire: That is a question that should be addressed to counsel, not to the witness, as to what the pleadings contain.

Exam. Dishman: The witness has testified somewhat along that line.

Can you answer the question?

The Witness: My understanding is that we are seeking the same routing to points on connections, to the extent that we serve the gateways as the GN, NP have. I did mention at different times the fact that we have rates from [fol. 4102] our own origins, such as Spokane, to destinations and via these intermediate lines, and that the new routing would follow that same pattern. I believe that would be our effort, and—

By Mr. Torinus:

Q. Well, Mr. Engel, all you are saying is that if sometime should you elect to restrict routing via Canton and these other points, sometime in the future, you would have the authority to do that?

A. We do have.

Q. Now, should you be successful in this case, you expect certainly to handle roller cars, don't you?

A. Surely.

Q. You are going to solicit roller cars?

A. We will solicit any business that is available.

Q. The more lumber business you get, the more roller cars you get, the better you will be satisfied; isn't that correct?

A. The more business we get the better I will be satisfied.

Mr. Torinus: That is all the questions I have.

Exam. Dishman: You have finished, Mr. Torinus?

Mr. Torinus: Mr. Engel, Mr. Rockwood calls my attention to one remark of yours where you said the use of the Canton route had dwindled, according to your study. Have you made some other study with respect to the utilization of the Canton route?

The Witness: Just in a six-months' period, and it seemed to taper off during that six-months' period.

By Mr. Torinus:

Q. You mean it dwindled, let's say, in February, as com- [fol. 4103] pared with September?

A. Yes.

Q. You don't know now whether it is on a crescendo or diminuendo, is that correct?

A. I do know that it was used to a very little extent.

Q. Now?

A. Comparatively little extent today, yes, sir.

Mr. Torinus: I have no further questions.

Exam. Dishman: Let's take a short recess.

(Recess taken.)

Exam. Dishman: The hearing will be resumed, gentlemen.

Do you have any more questions, Mr. Torinus?

Mr. Torinus: I have no further questions.

Mr. Rockwood: I have some.

Cross examination.

By Mr. Rockwood:

Q. Mr. Engel, at page 3840 of the transcript you commented on Transcontinental Freight Bureau Application D-2223, being the request of Continental Forest Products Company for the publication or establishment of rates on lumber from the branch of the Oregon Olympic to destinations on the Milwaukee east of Mobridge, and you stated that the rates were recommended and stand approved as of June 2, 1953.

Mr. Maguire: 1955.
Mr. Rockwood: 1955, I am sorry.

By Mr. Maguire:

Q. Then after about eight pages of what we will call [fol. 4104] colloquy between counsel, you stated on page 3848: "We concurred in order that shippers on the SP&S might have the benefit of the additional rates which would be provided."

In that answer you were referring to the two proposals, were you not, the proposal which I just referred to with the Transcontinental Freight Bureau and also the proposal presented to the North Pacific Coast Freight Bureau relating to rates from SP&S points to points on the Milwaukee west of Mobridge between Spokane and Mobridge.

A. Yes, sir. We concurred in both of them.

Q. In 1952, did the Milwaukee then concur in the proposal made by SP&S to make rates from the Santiam applicable to Milwaukee points east of Mobridge, South Dakota?

Mr. Maguire: Have you finished the question?
Mr. Rockwood: Yes.
Mr. Maguire: I object to that question, Mr. Examiner, because that is improper cross examination. Mr. Engel only testified as to what has been done with these two specific proposals which were approved in 1955, and were filed, either in late 1954 or 1955.

This is going back into the history in the past which has no bearing upon his testimony with regard to the present acceptance, whether we did or did not object in the past.

Exam. Dishman: What do you say to that? What was the purpose of the question?

[fol. 4105] Mr. Rockwood: A suggestion was thrown out during the examination of Mr. Engel. There was a great deal of discussion relating to the testimony of Mr. Ehlen with respect to the proposals made at that time for the publication of rates from the Santiam branch, Mr. Ehlen's testimony being that the Great Northern and Northern Pacific concurred, and that the rates did not become effective

because, a—or the Pacific Coast Terminal Line refused to concur.

I am asking Mr. Engel if at that time the Milwaukee concurred in the publication of those rates as proposed by the SP&S, in which the Great Northern and Northern Pacific concurred.

Mr. Maguire: Are you finished?

Mr. Rockwood: Yes.

Mr. Maguire: In other words, Mr. Examiner, Mr. Rockwood is trying to cross examine Mr. Engel upon Mr. Ehlen's testimony at a previous hearing.

Mr. Rockwood: Not at all. This all became material as an answer to Mr. Ehlen's testimony, and you remember, Mr. Examiner, there was an attempt to infer that the SP&S was dong this in order to bolster up this case, and the Examiner ruled that the remarks to that effect should not be permitted to go into the record.

I am wondering whether the Milwaukee's concurrence—to adopt Mr. Maguire's picturesque language, sanctimoni-[fol, 4106] ous language—at the present time and their concern for SP&S shippers at this time was also their motivating—the motivating factor of the Milwaukee back then.

Exam. Dishman: How relevant is that to the issues here, Mr. Rockwood, would the answer to your question be?

Mr. Rockwood: I think it is relevant. There was a great deal of testimony by the shipper witnesses at the very first Portland hearing that they were deprived of something because the Santiam rates were not made applicable to points east of Mobridge, and indicating at that time that it was due to the fault of the SP&S or the Oregon Electric in not publishing those rates, and we want to show that the concern of the Milwaukee for the shippers is something new in this case, and is an entirely different attitude than they took in 1932, when we proposed that they should be published.

Mr. Maguire: Mr. Examiner, as to that, counsel, I think, has gotten himself a little bit farther away from the issues which are here involved because now he wishes to cross examine Mr. Engel upon some colloquy, and also what he terms an improper statement that I made which the Examiner ordered stricken from the record.

I don't think that this witness should be cross examined upon a remark of counsel, whether his own or anyone else, which was stricken from the record, and besides, this is just getting down, the question or the issue involved is [fol. 4107] whether, under the circumstances existing at the time of and since the filing of complaint, there is a valid ground of complaint under the law. Now, what has happened in the past, and as far as family rows are concerned, or neighborhood rows, as they might be called, I don't think they have a bearing on the real issues in this case.

Mr. Rockwood: May I remark this: I read the answer, wherein the Milwaukee witness stated the reason for concurrence in the proposals recently made. I think this is perfectly relevant as the basis for asking him further when that concern for the shippers on the SP&S by the Milwaukee developed.

Mr. Maguire: Furthermore, Mr. Examiner, Mr. Engel was cross examined about this very same matter at the first hearing in Portland, held in June, 1954, and the answers to the entire line of inquiry are in the record as of that time.

Exam. Dishman: It seems to me that this has been gone over in the past, but I will let the witness answer, if you are laying the groundwork for something.

By Mr. Rockwood:

Q. Do you know whether the Milwaukee in 1932, if that was the year, concurred in the proposal then made by the Oregon Electric; do you know?

A. Our examination—or my examination of the file did not disclose an actual offer of publication. I undertook to run that down in the Transcontinental Freight Bureau offices, and was unsuccessful, because of the old records, so [fol. 4108] I can't say definitely on that.

Q. Your own files do not show? Do you have a file of your own relating to that docket of the Transcontinental Freight Bureau that Mr. Ehlen referred to?

A. No.

Mr. Maguire: Mr. Examiner, the witness has already answered that very same question at the hearing in Portland in June of 1954.

Exam. Dishman: The witness has stated now that his records didn't show.

Mr. Maguire: Yes. He said he looked through what files were available and couldn't find them.

Exam. Dishman: Isn't that the answer, Mr. Rockwood?

Mr. Rockwood: I believe he said he didn't have his file with him on that docket, or something to that effect.

Exam. Dishman: I mean now.

Mr. Rockwood: He says now there is no record of the Milwaukee that shows the fact.

The Witness: The fact is our files didn't have it. That is why I went to the TCFB and couldn't find it.

Mr. Rockwood: I agree those files are old.

Exam. Dishman: The witness doesn't seem to have knowledge regarding that.

By Mr. Rockwood:

Q. In other words, you don't know whether or not the Milwaukee did or did not concur; is that right?

[fol. 4109] A. That is right.

Q. Who is your immediate superior in the organization of the Milwaukee on the matter of rates and divisions, Mr. Engel?

A. Mr. Paul Winson, Western Traffic Manager.

Q. Who is his superior?

A. Mr. P. H. Draver, Vice President.

Q. Are there gentlemen in your organization in Chicago who are engaged directly in the matter of rates and divisions?

A. Yes, sir.

Q. And do you have occasion to talk with them at various times on proposals relating to rates in the North Pacific Coast territory?

A. Yes, sir.

Q. And when you go in, then, to a North Pacific Coast Rate Bureau meeting, do you in every instance disclose to the members present the conversations which you have had with your superiors on the subjects on the docket?

A. Not in every instance, no.

Q. Frequently you do not. Do you know anything about the extent of the conversations which officials of the SP&S

may have with officials of the Great Northern and Northern Pacific on rate proposals pending before the Northern Pacific Coast Rate Bureau?

Mr. Maguire: Just a minute. That answer has already been made on direct. The witness says he did not know of [fol. 4110] the conversations between the SP&S—

Exam. Dishman: Is that your answer now?

The Witness: Yes, sir. That has been my testimony, too.

By Mr. Rockwood:

Q. So the fact may be, so far as you know, that specific matters have been discussed by the SP&S with Great Northern and Northern Pacific officials before the SP&S General Representative appears at a North Pacific Coast Rate Bureau meeting; is that correct?

Mr. Maguire: That is an argumentative question.

Exam. Dishman: The answer would be obvious.

By Mr. Rockwood:

Q. You made some remarks about the fact that you negotiated divisions with SP&S traffic officials. I will find it in a moment. On page 3854, you stated: "While we do not know what the SP&S do when it comes to considering and consummating joint rates and divisions between the SP&S and ourselves, we do not take the matter up with the Great Northern or Northern Pacific, but take it up directly with the SP&S and handle conclusions with that line only."

That is the end of the quotation.

In connection with these rates from SP&S points, to points between Spokane and Mobridge on the Milwaukee, which was the subject of the Northern Pacific Coast docket that we referred to at some length in this record, that matter involved also the discussion between the Milwaukee and the SP&S officials of the divisions under those proposed [fol. 4111] rates between the SP&S and Milwaukee, did it not?

A. Yes, sir.

Q. You personally handled those negotiations?

A. Our office did, yes, sir.

Q. Were you in on it?

A. I was in on it to the extent of suggesting to our representative who attended the docket meeting that we be willing to accept the same divisions east of Spokane as do the Great Northern and Northern Pacific to corresponding points. To that extent I was in on it.

Q. All right.

Did you have any discussion of that subject with any of your superiors before you made that suggestion to your representative at the North Coast meeting?

A. Yes, sir, I did.

Q. Your superiors at Chicago?

A. Both at Chicago and Seattle.

Q. And the suggestions you made to your representative were under the authority or with the approval secured in advance from your own superiors?

A. It was on my recommendation and on their approval, yes.

Q. Secured in advance?

A. Yes, sir.

Q. And do you know anything about the extent to which the SP&S discussed with representatives of the Great [fol. 4112] Northern and Northern Pacific the measure of those divisions, before active negotiations were taken up between the Milwaukee and the SP&S? Do you know anything about it?

A. No, sir.

Mr. Rockwood: That is all I have.

Exam. Dishman: Mr. Golden, do you have anything?

Mr. Golden: Yes, sir.

Cross examination.

By Mr. Golden:

Q. Mr. Engel, you have never engaged in the business of manufacturing or shipping lumber from the Pacific Northwest, have you?

A. No, sir.

Q. You are not now in that business?

A. No, sir.

Q. And I take it from the colloquy between your counsel and Mr. Torinus a few moments ago that you don't consider yourself an expert in the conduct of that business?

Mr. Maguire: Are you cross examining him on the colloquy now?

Mr. Golden: I am asking him whether he considers himself an expert in the conduct of a business of that sort.

The Witness: I don't consider myself an expert. I just have general knowledge of that business, in relation to the traffic, in relation to rates generally—railroad rates generally.

[fol. 4113] By Mr. Golden:

Q. And so far as the conduct of that business in making shipments, you do not know what is a prudent or imprudent operation?

A. Yes. I believe I could say pretty definitely, because the matter of freight rates is vital, and naturally I have had a lot of conversation and discussion with people engaged in that business, who want to know whether it would be advisable to obtain raw materials here or there, etc., and just what benefit can be obtained from it, so I could say definitely to any transit operator whether it would be prudent for him to obtain lumber at a given source.

Yes, sir, I can say definitely that I do know that.

Mr. Golden: That is all I have.

Exam. Dishman: Anything, Mr. James?

Mr. James: No questions.

Exam. Dishman: Mr. Musenbrock?

Mr. Musenbrock: I have some questions.

Cross examination.

By Mr. Musenbrock:

Q. Mr. Engel, under your present lumber tariffs—that is, of both the Milwaukee and the Great Northern and Northern Pacific, with which you are familiar, those tariffs

have specific routing provisions in connection with them, do they not?

A. The eastbound lumber tariff?

Q. I am only speaking of eastbound lumber tariffs and I [fol. 4114] am only speaking of lumber tariffs from the Pacific Northwest.

A. To points—

Q. To WTL territory and beyond to Official Territory.

A. They all have routing in connection with them. Some are more specific than others.

Q. But they are all specific routes; in other words, it is not wide open routes, as to the lumber tariffs? They have specific interchange points?

A. I would term it so, yes.

Q. Now, as to the class or other commodity tariffs. I understood you to state to Mr. Torinus yesterday they do not have specific routing provisions; they are wide open?

A. It is specific to the extent that it is open beyond what they call in the territory as the Western Gateways, which includes the Twin Cities. Our line, I think we specify—I am not sure, but we have certain gateways so that west of there, there isn't any open routing. If there were open routing, well, for example, we would have the rates via Spokane today, but they are restricted up to the so-called Western gateways.

Q. You are speaking of class and commodity tariffs other than lumber?

A. Yes. All of them are restricted in that way.

Q. But east of that they are not restricted?

A. The general merchandise traffic moves under rates that carry a pretty general open application east of those [fol. 4115] gateways. I think the GN and NP are probably a little more restricted than ours, but they carry specific routing up to the Western gateways and beyond that, generally open. That is right.

Q. Now, as to the present Milwaukee single-factor lumber tariffs from your own local points into Western Trunk Line Territory, they also carry, as you have just stated, specific routing provisions in connection with WTL carriers, do they not, including the M.&St. L.?

A. Yes, sir, they do.

Q. Now, as to the present Milwaukee single-factor lumber tariffs from the SP&S origins into WTL territory, they do not carry any diversion privileges, do they?

A. From off the SP&S, rates via SP&S, Spokane to Milwaukee?

Q. That is right, diversion privileges. I am asking—I should go on to say diversion privileges off of the Milwaukee.

A. Well, there are diversion privileges, but it would be subject to combination rates, which, of course, just precludes. There are no single-factor through rates.

Q. My question was single-factor, so there is no single-factor rates with diversion privileges off of the Milwaukee?

A. That is right today, yes, sir.

Q. Now, in the event this complaint is successful, would not the prospective Milwaukee lumber single-factor tariffs, although with routing provisions as to connections, would not those tariffs be wide open, so far as the Milwaukee [fol. 4116] single-line haul is concerned?

A. Yes, unless we decided to put some internal routing in there.

Q. As you discussed with Mr. Torinus this morning?

A. Yes, sir.

Mr. Maguire: Could I interrupt for clarification? By "wide open routing", do you mean west of the Missouri River points or crossings, or east of it, or where? That is rather a general term. I want to be sure we all understand each other.

Mr. Musenbrock: I think we should be fair on that. I represent the M. & St. L., and I am interested in east of the Missouri River points. I am interested in WTL territory, east of the Missouri River.

By Mr. Musenbrock:

Q. And those tariffs that you would propose would also contain diversion privileges beyond the Milwaukee?

A. Surely.

Q. So that a shipment could be diverted into Official Territory, or beyond WTL territory into Southeast Territory, for instance?

A. Yes, sir.

Q. Now, under present tariffs, is it not true that on St. Louis business—St. Louis, Missouri business, via DesMoines, and the Wabash beyond, the Milwaukee gets only a haul through Minnesota Transfer; you cannot haul to DesMoines and interchanges with the Wabash at the present time on SP&S business?

[fol. 4117] A. We don't have any rates beyond DesMoines at all.

Q. You don't have any rates into DesMoines, in fact, do you, on SP&S business?

A. That is correct. It is a common point to which we do not have rates. That is right.

Q. So that on St. Louis business, you have to haul it through to transfer, unless you make a combination over Omaha or Kansas City, or somewhere down there?

A. We can only obtain a haul from the transfer to DesMoines business off the SP&S today, that is right.

Q. So is it not true also that if the Milwaukee is successful here in your complaint, your prospective tariff will allow you to haul from Spokane, SP&S business, from Spokane to DesMoines over any feasible and effective Milwaukee route, to DesMoines, and thence to St. Louis via the Wabash?

A. Yes, sir, that is right.

Q. Incidentally, the Milwaukee and the Wabash, or do you know, are joint owners of the DesMoines Union Railway; do you know that or not?

A. No.

Q. Thank you.

Now, the statement that you just made as to DesMoines—as to St. Louis business via DesMoines, that would also apply to DesMoines properly, would it not? At the present time you have to haul to DesMoines proper via the Min-

[fol. 4118] nesota Transfer, do you not?

A. When you say "do you have to haul to the Minnesota Transfer", we don't have the rates today via that way.

Q. I will change the question. As to SP&S business via Milwaukee today, the Milwaukee cannot haul it directly to DesMoines from Spokane. They have to take it at the Twin Cities gateways like other WTL carriers?

A. That is the only way the rates apply today. That is, via the Milwaukee beyond the transfer only.

Q. And we are still speaking of lumber rates. You and I understand one another on that?

A. We are still speaking about DesMoines, Iowa?

Q. That is right.

Mr. Maguire: I would like to get one thing clear, if you will pardon my interruption. When you talk about SP&S business destined to DesMoines, are you talking to SP&S business which the Milwaukee takes over at Spokane or takes over at the Twin Cities?

Mr. Musenbrock: As I understand it, Mr. Maguire, the Milwaukee cannot take over any SP&S business destined to DesMoines at Spokane because they have no rates.

Mr. Maguire: That was my understanding, too.

Mr. Musenbrock: That is right. If there is any SP&S business destined to DesMoines with Milwaukee routing, the have to take it at the transfer; that is correct, isn't it, Mr. Engel?

[fol. 4119] The Witness: That is the only way the rates apply today.

[fol. 4120] Q. In the event the Milwaukee were successful here your prospective tariff, however, would allow the Milwaukee to take over that Des Moines business at Spokane, would it not?

A. Yes, it would carry the alternative application either via Spokane and the Twin Cities, thence other lines, or it would carry our own route into Des Moines.

Q. When you speak of that alternative provisions, the Milwaukee would not give up anything they have now, but they would add to a direct Milwaukee haul from Spokane to Des Moines? That is a fair statement?

A. We are seeking the rates through to Des Moines by our own road; yes, sir.

Q. And the interchanging with the S. P. & S. at Spokane?

A. Yes, sir.

Q. At the present time I understand from Mr. Swanson's testimony on pages 3249 and 3250 of the record, and in that connection Exhibit 68, that Aberdeen is a gateway with the Milwaukee on Milwaukee local business to points west of

Winthrop, Minn., on the M. & St. L.; is that your understanding?

A. As I recall it; that is right.

Q. In the event the Milwaukee is successful here would it be your proposal to give the M. & St. L. a routing through the Aberdeen gateway, any broader than presently exists under Milwaukee local tariffs?

A. No. As I have said, just a little while ago, I think it [fol. 4121] would be the purpose to follow the same pattern of providing routing via Aberdeen and your line as exist today from Spokane proper.

Q. So that as to the M. & St. L., if your proposal goes through it would not have the full use of its Aberdeen gateway for its entire system, but only to those stations west of Winthrop, Minn.?

A. To the extent that we have the rates today. I can't go beyond that.

Q. Can't you answer that question "yes" or "no"? I think it is a fair question, Mr. Engel.

Will you read it to him, Mr. Reporter?

(Question read.)

The Witness: Yes, sir.

By Mr. Musenbrock:

Q. Now, with that background, Mr. Engel, in what respect did Mr. Swanson err in his testimony on page 3253? In your testimony yesterday you stated that there were certain erroneous and misleading references to existing rate applications which carry with them the implication that they would obtain if we prevail in this action, speaking of the Milwaukee, and you cited Mr. Swanson's reference to "wide open routing to common points on the Milwaukee with other lines at page 3253 of the transcript.

Where did Mr. Swanson err if what you said this morning is so?

[fol. 4122] A. I referred to those four lines' witnesses collectively, and the general theme of their testimony was to the effect that we would be able to take traffic to points on their railroads beyond the Transfer, and deliver it to them at some junction south of the Transfer, and, as I

pointed out, the present rates via that route or via the Twin Cities and those four lines, is specific.

It does not permit of our taking it beyond and short hauling them between the Transfer and those destinations on their railroads.

Q. Mr. Swanson never said anything about that, Mr. Engel. There is not one word in his testimony as to short hauling the M. & St. L.

Mr. Maguire: How about Chaska, Minn.?

Mr. Musenbrock: I was coming to that. It isn't a short haul because as Mr. Engel stated it is an alternative interchange point with the same division. Chaska is out of it.

By Mr. Musenbrock:

Q. Did you thoroughly read Mr. Swanson's testimony on that, Mr. Engel?

A. I will say this: That the M. & St. L. representative was more fully conversant with the rates than either of the others, and that if I included him in there, unfairly, I would like to withdraw it, but I treated all of them in this same general grouping on that theme, and I wanted to clear it up.

Q. And your reference, then, to erroneous and misleading [fol. 4123] references in the transcript from these W.T.L. witnesses had reference to the short hauling south of the Twin Cities?

A. Yes, sir; that is right.

Q. Now, we will come to counsel's query as to Chaska. What quarrel do you have with Mr. Swanson's testimony on page 3279 where he merely mentioned Chaska as another bypass route via Cologne? Mr. Swanson in that testimony was not talking about divisions, and he didn't indicate any quarrel with the Milwaukee as to Chaska. All he did on that page, as I read it, is that he mentioned Chaska as a bypass route off the main line, Cologne, to Chicago and east, and he was using it as an illustration, and he had also used the other routes.

What quarrel is there in that testimony from your standpoint, Mr. Engel, because you mentioned that—I don't know what page of the transcript; I have your notes here. You commented on Mr. Swanson's testimony in that respect.

A. My interpretation of that reference to Chaska was the same as—put it this way: His reference to Chaska and treatment was a similar treatment of Chaska as though it were some point in Iowa involving a considerable short hauling of the M. & St. L., and a bypassing of the Twin Cities gateway, and I wanted to clear up the fact that Chaska was merely a substitute for the Twin Cities proper, and I wanted to be sure that the M. & St. L. was not being shorthauled for the reason that they received the same revenue south of the Chaska junction as south of Twin [fol. 4124] Cities to the M. & St. L. destination territory, generally.

Q. You were still, then, speaking of Chaska in the sense of short hauling the M. & St. L.?

A. I interpreted his testimony as being in a similar position as other junctions south of the Twin Cities; yes, sir.

Q. But in the relation that he used it, is it not fair to say that Chaska is a bypass route that would avoid the Twin Cities on Chicago and east business the same as the Aberdeen gateway via Mitchell or via Madison?

Mr. Maguire: Just a moment. I don't like to interrupt, Mr. Examiner, Mr. Musenbrock's, I will say, very objective cross-examination, but it seems to me we are drifting into an argument between counsel and the witness as to an interpretation of another witness' testimony and I think that is a matter of argument for the brief.

Mr. Musenbrock: Not right now. I just wanted to get Mr. Engel's interpretation, as he has questioned Mr. Swanson's testimony concerning bypass routes. I wanted to get this witness' interpretation as a Milwaukee expert of what he considers bypass routes, and then that could relate back as to what weight is given to his testimony where he questions Mr. Swanson.

The Presiding Officer: Can you answer the question, Mr. Engel?

The Witness: I don't actually consider Chaska as bypassing the Twin Cities gateway insofar as our revenues are concerned.

[fol. 4125] By Mr. Musenbrock:

Q. Not as far as revenues probably, Mr. Engel, but for operating facility and as a feasible route it is a bypass route, isn't it?

A. It avoids the Twin Cities' terminal; yes, sir.

Q. Incidentally, we don't have Mr. Swanson here to correct it, but on page 3280 of the record I asked a question which is stated in the record:

"Question: That is, the Milwaukee leaves the main line at Coleraine, Minn., and traverses over towards Farmington and Chaska is on that route."

Should not the word "Coleraine"—I will ask you as a gesture to me, that should be Cologne, should it not?

A. Cologne; yes, sir.

Mr. Musenbrock: If the Examiner please, I would like to change the word "Coleraine" in the second line from the top of page 3280 to Cologne.

Mr. Maguire: No objection.

Exam. Dishman: All right.

Mr. Musenbrock: I think that is all. Thank you, Mr. Engel.

Exam. Dishman: Anything, Mr. Boe?

Mr. Boe: I have a few questions, Mr. Examiner, please.

By Mr. Boe:

Q. Mr. Engel, there was some reference in the Washington hearing in the last few days to groups A, B, and C, without further definition. Can you state territorially about the position of those groups, and where they are?

[fol. 4126] Mr. Maguire: Pardon the interruption, Mr. Boe, but may I ask, is this to test the witness' knowledge, or is it merely to get into the record the location of groups A, B, and C?

Mr. Boe: The reference up to now is to groups A, B, and C, and I want to define more particularly where they are. It is not to test this witness' knowledge. It is merely for the purpose of establishing more particularly in this record where those groups are.

Mr. Maguire: The record is quite replete, Mr. Examiner, with definitions of the locations of groups A, B, and C, and I think there are some exhibit maps that show them. If that is the purpose of it, I don't believe it is necessary.

The Witness: I think my—if I may suggest, I think my map, the Rand-McNally map, my exhibit—

Exam. Dishman: What exhibit number is that?

Mr. Boe: In other words, there was some testimony at this hearing about groups A, B, and C, without defining. If they are referred to in some previous exhibit you are willing to accept the reference at the Washington hearing as referring to the groups that are shown on this exhibit?

Mr. Maguire: Surely. It shows in Exhibit No. 6.

Exam. Dishman: All right.

By Mr. Boe:

Q. Now, then, do those rates to those groups apply specifically to lumber or do they apply to other commodities? Are the lumber tariffs prepared differently as to the group-[fol. 4127] ing, or do they refer to the groups A, B, and C?

A. The eastbound lumber tariffs are prepared differently. Those groups A, B, and C are used in the publication of rates on merchandise traffic generally. The rates on lumber are covered by a so-called rate basis application that are entirely foreign—I would not say entirely foreign, but they are a different manner of publication than on the general merchandise; yes, sir.

By Mr. Maguire:

Q. To clarify, would Exhibit 7, this West Coast Lumberman's Association, would that outlined in gray be groups A, B, and C in your lumber tariff?

A. Yes, sir.

Mr. Maguire: Exhibit No. 7, Mr. Boe.

Mr. Boe: I just wanted to be sure the record is straight when we talk about commodities, and these groups.

Mr. Maguire: That is the territory surrounded by the heavy grain line, or heavy gray border in Exhibit No. 7?

The Witness: That is substantially the A, B, and C territory; yes, sir: of the merchandise tariff.

Mr. Boe: That Exhibit 7, Mr. Engel's Exhibit, incidentally, doesn't show the lettering.

The Witness: If that were matched with the other one that Mr. Maguire referred to you will find the outline is substantially the same.

Exam. Dishman: You mean Exhibit No. 6?

[fol. 4128] The Witness: Yes, sir.

Mr. Boe: That is Group D shown on Exhibit No. 6.

The Witness: Group D is Illinois, and, of course, C starts east of the Illinois-Indiana State line, and I am quite sure that—this territory in here, with the $1.23½ encircled is the "D" that you mention on this other map, and so it is actually outside of the A, B, and C territory.

By Mr. Boe:

Q. It is shown on Exhibit 6?

A. This starts at the Illinois-Indiana State line, and at Lake Michigan.

Mr. Musenbrock: What do you mean by "this"?

The Witness: This group C territory are the merchandise tariffs, and, corresponds with the gray line in the Exhibit No. 7.

Mr. Boe: Now, then, referring to Exhibit No. 130, Mr. Nickel's Exhibit 130, the cars listed under lumber and forest products, and then under the other grouping "All other commodities," includes cars to the territories which we have just discussed in the previous questions and answers; is that right?

The Witness: Would you mind repeating the question, please?

(Question read.)

The Witness: Yes, they would be included in there.

By Mr. Boe:

Q. But they include those cars, but you can't tell from looking at Exhibit 130 what amount of cars were moved to these groups A, B, and C?

[fol. 4129] Mr. Maguire: Pardon me for the interruption.

Mr. Examiner, that is a question which should have been addressed to Mr. Nickels who prepared the exhibit. Mr. Engel is now being cross-examined upon some of the basic data used in Mr. Nickels' exhibit.

Exam. Dishman: You are not familiar with that, are you, Mr. Engel?

The Witness: Nothing, except in a general way.

By Mr. Boe:

Q. Do you know whether or not the cars—are you sufficiently acquainted with this Exhibit No. 130 to be able to say whether or not the cars listed here did or did not move to groups A, B, and C?

A. No, sir.

Q. Now, you talked with respect to a movement to Newton, Iowa. Milwaukee handled the shipment to Des Moines and interchanged with the Rock Island. Do you know whether or not the Milwaukee serves Newton, Iowa, or is that a local point on the Rock Island or joint with some other railroad?

A. I think it is a common point. I think it is served by other lines.

Q. Well, I am not trying to test your knowledge to that extent, but the fact is that it is not on the Milwaukee Railroad. Now, then, it is on the M. & St. L. and the Rock Island.

Exam. Dishman: Is that your understanding?

The Witness: I am sorry. I would have to check it.

[fol. 4130] Mr. Boe: That is a fact.

By Mr. Boe:

Q. Now, with respect to a movement to Newton, Iowa, as far as the Milwaukee is concerned, in that specific shipment could you say whether or not that shipment moved through the Twin Cities, or did it move via another route of the Milwaukee to Des Moines?

Mr. Maguire: I hate to interrupt you, Mr. Boe, but you say there was mention made of a shipment to Newton. Did Mr. Engel testify about a shipment to Newton, Iowa? I don't recall any such testimony.

Mr. Boe: I thought he did testify to that.

Exam. Dishman: Did you, Mr. Engel?

The Witness: No, sir. I didn't testify as to any particular shipment. I simply referred to Newton, Iowa, as having been referred to by one of your witnesses.

Mr. Boe: Your reference was general, then; not referring to a specific shipment, but I knew that Mr. Engel had referred to that situation.

By Mr. Boe:

Q. Now, how would that shipment move from the Pacific Northwest in connection with the Milwaukee to Newton, Iowa? Would it move through the Twin Cities, or would it move through your Aberdeen gateway in the West to Des Moines?

A. Well, if Newton, Iowa, is served by the M. & St. L.—

Q. And the Rock Island?

A. —and the Rock Island, I am quite sure the rates only [fol. 4131] apply via Milwaukee to the Twin Cities, possibly also Chaska, and the other lines, so that we would deliver that car to those lines at the Twin Cities or Chaska.

Q. Well, now, if the shipment came to rest at Des Moines on the Milwaukee Railroad from this point—just forget about the Rock Island and M. & St. L. for the moment—what route would the Milwaukee ordinarily move that car from the Pacific Northwest? Would it move it via the Aberdeen gateway or the Minnesota Transfer?

A. This is an entirely different shipment that is going to Des Moines, Iowa, from a point on our railroad?

Q. That is right.

A. I don't know. I noticed Mr. Nickels stated that we handled traffic by the Twin Cities into that area down there, so I really don't know how [illegible]affic actually moves.

Q. On the assumption [illegible]e rate situation, and the approximate mileages are about the same—either via the Minnesota Transfer or via the Aberdeen gateway, you have an open routing and could select for the Milwaukee whether to ship it via Aberdeen or via the Twin Cities, couldn't you, or wouldn't you?

A. As far as the rate is concerned, it would be open. As far as—

Q. The availability of both routes, as far as that is concerned they would both be available under that shipment?

A. Yes, sir.

[fol. 4132] Q. Would that be true as far as Kansas City is concerned where you have the Aberdeen gateway or the Minnesota Transfer?

A. Yes, sir. I believe you asked me about Kansas City before, and I said if we have Fourth Section authority the rates apply via the Twin Cities, and since that time I have checked it, and we do have Fourth Section authority, so that we could, and we do apply our rates into Kansas City that way so far as I can see.

Q. You apply them either way?

A. Yes.

Q. The Milwaukee Railroad does not extend beyond Kansas City, as far as Southwestern Freight Bureau traffic is concerned, and would have to interchange traffic for Oklahoma City, let us say, to one of three or four other lines at that point; is that right?

A. Yes. We don't go beyond Kansas City toward the Southwest.

Mr. Boe: That is all I have. Thank you.

Exam. Dishman: Does that conclude cross-examination?

[fol. 4133] Mr. Golden: Mr. Examiner, before the witness is excused, I would like to make one motion, I believe. I asked a few questions a few moments ago directed toward that, and did not make the motion, due to the answers of the witness.

It seems to me that the hearing in Portland, the opening hearing in this case, that on cross examination the witness was not an expert. When we got to the second hearing in Chicago, the witness was an expert. At this hearing, I can't tell whether he is an expert or not. It seems to me that when he faces one direction from Spokane, he is an expert; when he faces the other direction, he is not an expert.

In any event, I would like to move that the statement of the witness commencing on page 3822 of the transcript, four lines from the bottom, with regard to the practicability of rates via Marengo, and continuing on to page 3823 of the transcript, through line 8, be stricken from the record.

Mr. Maguire: Mr. Examiner, there is nothing that has been said by Mr. Golden, except that his mere characterization of Mr. Engel's testimony in Portland as to whether he was an expert as to certain phases of the lumber business or not.

He hasn't seen fit to refer to the pages of the record at the Portland hearing, so that the Examiner would be in any position to judge, and even if he had mentioned—and even if there had been a conflict, which I am sure there was not in Mr. Engel's position, that would still only go to the weight [fol. 4134] of the testimony and not as to the admissibility of it, and that the motion to strike would not lie.

Exam. Dishman: I will overrule the motion to strike and state that it goes to the weight which should be accorded the testimony.

Mr. Maguire: And by making those remarks, I do not consider that any weight should be given to Mr. Golden's comments, either.

Exam. Dishman: Is there any further questioning?

(No response.)

Exam. Dishman: Is there anything on redirect?

Mr. Maguire: Yes. I have a few questions on redirect. Shall I go ahead? I would as soon finish with Mr. Engel. It won't be long.

Exam. Dishman: All right.

Redirect examination.

By Mr. Maguire:

Q. Mr. Engel, with regard to these questions addressed to you by Mr. Torinus about the availability of transit privileges on the Union Pacific Railroad's own line in connection—that is, on shipments moving on joint through rates, if any, Union Pacific to Spokane, thence via the Great Northern, have you since had a chance to check upon the tariffs in question?

A. Yes, sir. During the recess I looked at this tariff, Agent Watson's ICC 896, and I find that the item—

[fol. 4135] Q. Just a minute. You have checked on it?

A. Yes, sir.

Q. Now, then, is there any reason why you cannot concur in Mr. Torinus' suggestion to you, anything in the tariff that indicates to you any reason why you cannot concur at this time in his suggestion to you that there is no transit available on shipments originating on the UP, west of Spokane, moving on joint through rates through Spokane, thence via the Great Northern?

Do you find anything that makes you disagree with his suggestion?

A. No, sir, there is not.

Q. Now, then, some question was asked you about this check you made of shipments moving through Canton, South Dakota, and you referred to the matter being brought up by the defendants, or their intervenors, at a Portland hearing.

Which Portland hearing was that, the first one or the last one?

A. The second one, I am quite sure.

Q. That was the one which was last February; is that right?

A. Yes, sir, that is right.

Q. And it was then, as I gather, after that hearing that you checked upon the movements during the six months or the period, whatever it was, preceding the date of the hearing?

A. Yes. It was after that hearing that I had made the [fol. 4136] check, yes, sir.

Q. And the movements before your investigation started, and before this matter was brought up, these movements through Canton, or consignments to Canton, which you described here, had all of them taken place; is that correct?

A. Yes. They would have, because that was—well, it was a six-months' period, September, October, November, December, January, February—well, some of them, possibly; that hearing ended around February 23rd or fourth, so there might be some few of them.

Q. I may be doing Mr. Torinus an injustice as to the manner of the questioning, but after the hearing did you go out and pass the word out to the boys not to route anything through Canton during the rest of the month, or anything of that sort?

A. No, sir, I did not.

Q. Or have any such instructions ever been given?
A. No, sir.

Mr. Torinus: As far as you know?
The Witness: As far as I know.

By Mr. Maguire:

Q. Now, then, a comment was also made, or questions were asked, as to the coincidence of the beginning of the investigation period, which was in September, 1954, with the termination of the lumber strike on the Pacific Coast. Did that strike, or was that strike universal throughout all of Oregon and Washington, or do you know?
[fol. 4137] A. Just in a general way. It seems to me there were a number of mills operating throughout that period, and I know that shipments were made right along from supplies on hand.

Q. Now, then, do you have a general familiarity with the dealings of so-called transit dealers in lumber? Those are wholesalers of lumber who start a car out before it is actually sold. Do those dealers change from transit operators or transit dealers to firm sale operators, depending upon the shortage or plentifulness of lumber?

Mr. Torinus: Just a minute. I will object to that question. When I was cross examining Mr. Engel, he disclaimed any knowledge of the marketing conditions attendant upon the movement of lumber from the Pacific Northwest by firm shippers or transit car operators.

Now Mr. Maguire, on redirect, is attempting to qualify him in direct contradiction to answers that he gave me on cross examination.

Mr. Maguire: I can recall no such answers of Mr. Engel in connection with inquiries of this kind.

Exam. Dishman: Did you make answers along that line to Mr. Torinus?

The Witness: No, sir. As I recall it, he asked me a question that I felt the market would govern as to whether there was such movements. The market in the East would have a lot of bearing, which prevented me from answering [fol. 4138] the question, but as to the general operations, I don't recall any question on that.

Mr. Maguire: May he answer the question?

Exam. Dishman: The witness may answer if he knows.

The Witness: I am conversant in a general way with their operation and their practices.

By Mr. Maguire:

Q. And what effect, in general, do the fluctuations and supply have upon their manner of doing business?

Mr. Torinus: I object to that as no foundation laid. He says he is generally familiar with the manner in which these people do business. "Generally" is about as indefinite as you can be.

Mr. Maguire: He also in his answer to Mr. Golden's question said that he was familiar with the practices of them so far as the shipment of lumber is concerned. This is a question dealing with the shipment of lumber, whether a firm sale or not.

Exam. Dishman: See what the witness knows about it.

The Witness: I do know that they don't fluctuate with the market. They are in the business of procuring and selling, and they start cars out under good market conditions, and adverse throughout the year, or throughout the period of their business.

Mr. Torinus: The same number of cars, whether business is good or bad?

The Witness: No. They depend on the prospects of sale.

Mr. Maguire: That is all. Thank you, Mr. Engel.

[fol. 4139] Exam. Dishman: Is that all of this witness?

Mr. Torinus: I have no questions.

Exam. Dishman: Witness excused.

(Witness excused.)

Exam. Dishman: We will recess until 1:30.

(Whereupon, at 12:10 p.m., a recess was taken to 1:30 p.m.)

[fol. 4140] AFTERNOON SESSION

Exam Dishman: The hearing will come to order, gentlemen.

Mr. Maguire: I will recall Mr. Wilson for our cross examination on his testimony at the hearing.

PAUL WILSON resumed the stand and testified further as follows:

Cross examination.

By Mr. Torinus:

Q. Mr. Wilson—.

Mr. Maguire: Before you start, Mr. Torinus, could I ask that one correction be made? I think it is obvious upon its face. Page 3886 of the transcript, the fifth line from the bottom, or the second line of the last answer on that page, where the witness says: "I started at this with the idea that a transit operator doesn't have lumber that is available to all of the mills", is what the text of the record now says; and that should be "all of the lines", all of the railroad lines, in other words, and I would ask that the record be amended to that extent.

I have not had a chance, Mr. Examiner, to make a thorough check, and I believe there are some misspellings of geographical names which I think will be identifiable, with one exception. There is another one here. I will try to find the page before we adjourn, but reference is made to Port Angeles.

Mr. Rockwood: I have got that one. I stumbled on to that and I will call the witness' attention to it when I come to it.

[fol. 4141] Mr. Maguire: That is right. I will find it.

Cross examination.

By Mr. Torinus:

Q. Mr. Wilson, at page 3875 of the transcript you mentioned that there were three Cross Lake routes and that

there were 19 railroads soliciting freight via the Chicago gateway and eight via St. Louis. You stated that the solicitation efforts of those people greatly outweighed solicitation efforts of the Cross Lake groups.

Actually, there are six Cross Lake routes, are there not, six car ferry routes across Lake Michigan?

A. Yes. There are. I said "principal", I think. The other outside of Mackinaw City and—

Q. The routes that you named are the routes that the C&O, the Grand Trunk and the Ann Arbor have.

Now the Ann Arbor and the C&O each participate in more than one route, do they not?

A. Yes, sir.

Q. Isn't it a fact that there are six west-bank Lake Michigan ports from which car ferries operate across Lake Michigan?

A. Yes, sir.

Q. And those ports are Kawaunee, Wisconsin; Manitowoc, Wisconsin; Manistee, Michigan; Menominee, Michigan; Milwaukee, Wisconsin, and Saint Ignace, Michigan; is that correct?

A. Yes, sir.

Q. There are a number of railroads serving each of those [fol. 4142] six ports which have cross-lake routes, are there not?

A. Yes, sir.

Q. As a matter of fact, there are three serving Kewaunee, four serving Manitowoc, three serving Manistee, three serving Menominee, five serving Milwaukee, and three serving Saint Ignace, or considering the lines operating into and out of each of these ports separately, there are a total of 21 rail connections as those west-bank ports; is that correct, sir?

A. Well, I didn't count them, Mr. Torinus. As far as Saint Ignace is concerned, from the west, I think it is served by the DDS&A, Manistee, Soo Line.

Q. Taking Saint Ignace, it is served from the west by the DDS&A, and from the east by the New York Central and Pennsylvania; is that right?

A. That is right. Not Saint Ignace, Mackinaw City. Saint Ignace is exclusively on the DDS&A, I believe.

Q. The car ferry lines of the New York Central and Pennsylvania reach Saint Ignace, don't they?

A. I think that is the DDS&A car ferry. They reach Mackinaw City.

Q. However, the New York Central and the Pennsylvania would participate to move that traffic eastward from Mackinaw City across the lake?

A. I think so.

Q. You would have three carriers soliciting for traffic [fol. 4143] over that route, would you not?

A. Yes. The DDS&A, New York Central and the Pennsylvania.

Q. And my point was simply that if you considered a number of carriers serving each of those routes, you would have 21 rail connections in all?

A. The car ferry route of Milwaukee has the Grand Trunk and the GNO.

Q. Those are the lines that would carry traffic to the east?

A. That is right.

Q. And the western carriers which have connections with the C&O and the Grand Trunk at Milwaukee are the Northwestern, Milwaukee and Soo Line?

A. Yes, sir.

Five railroads in all. The Grand Trunk and the Northwestern and the Soo Line and Milwaukee also solicit business into Chicago, but I only included in my testimony the lines that were east of Chicago.

Q. When you were talking about the 19 lines?

A. Yes.

Q. I see.

A. I think the Grand Trunk and the C&O are included in the 19.

Q. Now, Mr. Wilson, you know, do you not, that those car ferry routes handle a considerable volume of lumber tonnage annually; is that correct?

A. They handle some, Mr. Torinus, and I would say that [fol. 4144] it would be considerable.

Q. I have made a compilation, Mr. Wilson, from the annual report of the Chief of Engineers, U.S. Army, Part II, which is dated 1952, and contains commercial statistics for

the year 1951, which is the latest annual report of the Chief of Engineers, U.S. Army, which we had in our library, and I would like to ask you whether you regard as reliable the statistics as to the tonnage of these car ferry routes across Lake Michigan contained in the report of the Chief of Engineers, U.S. Army?

A. As far as the tonnage that was handled by the boat, I believe I would consider that authentic.

OFFER IN EVIDENCE OF COUNSEL'S EXHIBIT

Mr. Torinus: In order that we may avoid, if possible, having surrebuttal hearings, I would like to offer as a counsel's exhibit, in connection with my cross examination of Mr. Wilson, a compilation which I have made from this report.

Exam. Dishman: Do you want it identified now?

Mr. Torinus: Yes.

Exam. Dishman: As counsel Torinus's Exhibit No. 138.

(Defendant's Exhibit No. 138, Counsel Torinus, was marked for identification.)

Mr. Maguire: Could I ask Mr. Torinus a couple of questions about this counsel's exhibit?

Exam. Dishman: All right.

Mr. Torinus: Yes, sir.

Mr. Maguire: With regard to your Footnote 1, that is [fol. 4145] not taken from the annual report of the Chief of Engineers, is it, Mr. Torinus?

Mr. Torinus: The information in Footnote 1 is taken from the ICC statistics.

Mr. Maguire: Do you have the number of it or the issue?

Mr. Torinus: I will show you what I have, Mr. Maguire. That information is taken from an annual summary of ICC commodity statistics, released by the AAR, and you will find that figure of 32.11 tons.

Exam. Dishman: Under what date?

Mr. Torinus: That was released May 24, 1955, and it contains summaries with respect to average loadings by commodity classes for a series of years, including the year 1951.

Mr. Maguire: Where do you see this 32.11 average?

Mr. Torinus: That figure appears on sheet 5 of the attachment, Mr. Maguire. The sheet really is numbered 100,678-5, under the column "1951, tons per car, commodity class 411".

Mr. Maguire: That is a national average, is it not?

Mr. Torinus: That is, as I understand it.

Is there any objection, Mr. Maguire, to the introduction of this exhibit at this time as a compilation from the Report of the Chief of Engineers, U.S. Army, and from the ICC commodity statistics that we have identified as part of the cross examination of Mr. Wilson?

Mr. Maguire: If you tell me that these are accurate [fol. 4146] transcriptions of figures which show in these respective reports, I will not doubt your word on it. I will make no question about the authenticity of the figures themselves

Mr. Torinus: They are, to the best of my knowledge, accurate transcriptions from the figures in the report.

Mr. Maguire: And without prejudice to any position I might take, and which I most certainly will take with regard to any surrebuttal hearing. I will give a point on this one and will concede that this may go in. I will have no objection to it.

Exam. Dishman: The exhibit is received in evidence.

(Defendant's Exhibit No. 138, Counsel Torinus, was received in evidence.)

COLLOQUY BETWEEN EXAMINER AND COUNSEL

Mr. Torinus: Thank you, Mr. Maguire.

Mr. Maguire: You are entirely welcome.

By Mr. Torinus:

Q. Now, Mr. Wilson, you will agree that 18,505 cars a year crossed those routes is a considerable volume of tonnage?

A. Yes, sir.

Mr. Maguire: Now, wait a minute, Mr. Examiner. We have let him put these figures in and whether it is a whole

lot of tonnage or a little bit, I think is a matter of judgment.

Exam. Dishman: The exhibit will speak for itself.

By Mr. Torinus:

Q. You say on page 3875 of the transcript that—

Mr. Maguire: Just one moment, before we go further on [fol. 4147] this. I am in kind of an anomalous position of cross examining counsel during the cross examination of Mr. Wilson.

Mr. Torinus: I thought your cross examination was concluded?

Mr. Maguire: No. I got another thought on this, and I will waive Mr. Torinus being placed under oath, but according to these statistics, there is no showing as to where this lumber or similar commodities originated, in what territory it originated.

Mr. Torinus: There is no showing in this exhibit and no showing in the report which I examined from which the statistics are taken.

Mr. Maguire: There is a very large amount of lumber produced in the Northern Middle-Western States, is there not?

Mr. Torinus: You will have to bring that out through Mr. Wilson.

Mr. Maguire: You are putting this exhibit in.

Mr. Rockwood: It is in.

Mr. Maguire: I know, but I want to ask some questions on that.

Mr. Examiner, then I would like to withdraw my acceptance of the exhibit until I complete this.

Mr. Torinus: If it will help you, Mr. Maguire, I will admit that there is lumber produced in the Middle Western States.

Mr. Maguire: And a substantial amount of lumber, too. [fol. 4148] Mr. Torinus: I don't know whether it is a substantial amount or not.

Mr. Maguire: I have no objections to the exhibit going in for what it is worth, in view of Mr. Torinus' very limited knowledge.

By Mr. Torinus:

Q. On page 3875 of the transcript, Mr. Wilson, you say: "It is quite difficult to secure traffic via cross-lake routes." Now, that difficulty, if there is a difficulty, does not arise on account of any service considerations, does it?

A. I don't think so, not specifically.

Q. As a matter of fact, you know those cross-lake routes are faster than the routes through Chicago; isn't that right?

A. I don't know that, no, sir.

Q. Isn't that what the lines operating the car ferry routes tell you?

A. They haven't told me that recently, no, sir.

Q. Doesn't the C&O, for example, brag about the efficiency of its car ferry route and indicate that it is a faster route than the all-rail route to the Chicago terminal?

A. They have not to me.

Q. Well, now, I want to read to you an excerpt from the annual report to the stockholders of the C&O for the year 1953 just one short sentence.

Mr. Maguire: Before you start, I object to that on the [fol. 4149] ground that that might be classified under the general heading of—of course, it is a self-serving declaration by someone not party to the case, and also it could be classified under the old term of vendor's puff. They, of course, are putting their best foot forward in any publication they make.

Exam. Dishman: What is the purpose of bringing this up? The witness has stated that no one has made representations like that to him.

Mr. Torinus: Like what? I haven't read it yet.

Exam. Dishman: I mean about the fast routes across the lakes.

Mr. Torinus: Let me withdraw the question for the moment and ask Mr. Wilson one or two preliminary questions.

By Mr. Torinus:

Q. In your capacity as Western Traffic Manager of the Milwaukee, Mr. Wilson, do you have occasion at times to meet with and discuss with the traffic representatives of the

lines operating across-lake routes the routes which they have, the service that they have and the traffic which they can handle?

A. Yes, sir. I do occasionally.

Q. And naturally in that discussion, some comparison is made from time to time between the desirability of the cross-lake routes and other routes; isn't that correct?

A. Not to me, within recent times.

Q. You can't recall in any of your recent discussions [fol. 4150] with the representatives of the cross-lake routes any comparison between those routes and the Chicago routes?

A. No, sir.

Q. So you don't know whether those people contend their routes are faster or not?

A. No, sir.

Q. You don't know whether they are faster?

A. No, sir.

Q. Well, as a traffic man, wouldn't it appear to you that the avoidance of the congested terminals in Chicago by utilization of the cross-lake routes would create a faster route between the Northwest and the East than going through the Chicago terminals?

A. Not necessarily, sir. We spend a lot of money getting cars through Chicago fast, and Milwaukee is a very congested area in itself.

Q. If the C&O brags in its annual report that the cross-lake routes are the faster routes, you don't agree with that; is that right?

A. I don't even know that they do.

Q. Would you be interested in knowing whether they do or not?

A. I am going to retire on June 30. After that I won't have much interest in whether they brag or not.

Mr. Maguire: I will decline that kind invitation, Mr. Torinus; no, I don't care what they say, and I am not inter- [fol. 4151] ested in hearing it, and I object to your saying it.

Mr. Torinus: Maybe you would stipulate as to what is in this report.

Mr. Maguire: No. I won't stipulate to that.

Mr. James: Maybe it is in your favor.

Mr. Maguire: Maybe, but I like hew to the rules of evidence.

Mr. Torinus: Would you like to look at it before stipulating?

Mr. Maguire: No. I am not going to look at it at all.

Mr. Torinus: I have no further questions at this time.

Cross examination.

By Mr. Rockwood:

Q. Mr. Wilson, I have some questions I want to ask you. Beginning at page 3880 of the transcript and extending on for several pages, you made various comments with respect to the data that are contained in Mr. Tein's Exhibit 112. You recall what that exhibit is?

A. Yes.

Q. Now, to begin with, on page 3880, you pointed out that since that exhibit was compiled, there have been changes in the mills in the Northwest States. Some have gone out of business; so that the exhibit is not accurate to state the situation as it exists today. Was that your point?

A. I think so.

Q. Well now, in the lumber business, you could never be [fol. 4152] up to date between the time you got the figures compiled today and the time you could get them mimeographed; there would be some changes in the lumber business, would there not?

A. There probably would be.

Q. Lumber mills are going in and out every day, out near the West Coast, are they not?

A. I don't say that they are going in and out every day.

Q. But they go in and out with some frequency, do they not?

A. Well, let's say they are going in and out.

Q. All right, so that in all probability, a compilation based on a publication for the year 1953 with material issued in 1953 and supplemented in 1954, there would be some additional miles which have come into existence in

the territory which are omitted from the tabulation necessarily; isn't that true?

A. There were none that came in in the territory that I was talking about, as far as those corrections were concerned.

Q. But have there been no new mills on the Milwaukee in the last two years?

A. Not that I could uncover.

Q. Have there been any new mills on the Union Pacific?

A. I don't know.

Q. Or the Southern Pacific?

A. I don't know.

Q. Or the SP&S Lines?

A. I don't know that.

[fol. 4153] Q. But from your general knowledge of the traffic conditions in the northwest, you would expect that, as a matter of course, there would have been changes in the number of mills on those lines, additional mills which were not in existence in 1953 and 1954, would you not?

A. Particularly as far as the Southern figures were concerned.

Q. You would expect a lot of new mills down there in their territory?

A. That is right.

Q. That is the booming area for lumber, isn't it?

A. It certainly is.

Q. Everybody out there is jealous of the favorable position of the Southern Pacific in the territory, particularly south of Eugene, Oregon?

A. Particularly the Milwaukee.

Q. Milwaukee is jealous of their position.

Mr. Rockwood: Here is that correction of Port Angeles at the top of 3881. The words are "Portland lease" and it should be "Port Angeles"; is that right?

The Witness: Yes, sir.

Mr. Maguire: That is the Gossett Timber Products Company of Port Angeles, is what the first line should read.

Mr. Rockwood: On 3882, in line 6, it reads, "one mile from Ooksack." Shouldn't that read "Nook Sack"?

Mr. Maguire: That is right. That is in line 6 and also

[fol. 4154] line 7. The proper name is "Nooksack" instead of "Ooksack".

By Mr. Rockwood:

Q. Beginning at 3883 of the transcript you enumerated several mills that do an off-shore business; that is, their lumber is shipped by water from the mills rather than by rail.

As to those mills, as I understand your testimony, you have no information as to the relative volume of particular mills shipped by water to compare with the relative volume of the product of those same mills shipped by rail?

A. I do not have, Mr. Rockwood, and I didn't attempt to find out. I wanted to bring it up because I thought possibly the exhibit should have taken that into consideration.

Mr. Maguire: Pardon my interruption for a moment, Mr. Rockwood. If this was merely a preliminary question to some other matter, I would not interpose an objection, but this whole question of the relative amount moving by water and rail from these off-shore mills was covered on these so-called clarifying questions that Mr. Rockwood asked the other day.

Mr. Rockwood: May I proceed?

Mr. Maguire: Yes.

Mr. Rockwood: Thank you.

Mr. Maguire: May I offer another correction here, which appears on page 3883, to which you are referring. In the next to the last line of the answer, which begins at the top of the page, are the words "Long View Lumber [fol. 4155] Company at Long View". That should read "Long Bell Lumber Company".

Mr. Rockwood: At Long View, Washington.

Mr. Maguire: That is right, at Long View, Washington.

By Mr. Rockwood:

Q. For any one of these mills, particularly those served by the Milwaukee, which do an off-shore business as well

as a rail business, every foot of the output of that mill is at least available to the Milwaukee for solicitation by rail movement, is it not?

A. It would be futile to solicit or consider lumber available to the Milwaukee which actually was moving off-shore.

Q. Are there not times when the off-shore business, because of ship shortage or labor, difficulties of the ship operators, substantially all the output of these particular mills turn to the rails?

A. Yes, sir, and vice versa.

[fol. 4156] Q. Has there been a time when all of the rail output goes to the water? All of the normal rail business goes to the water?

A. Not all, but a substantial part. Government buying takes an awful lot of lumber. For instance, one mill will work almost continually on a Government order for overseas, and ordinary rail shipment.

Q. But the fact is that if you can convince the operator of that mill that it is more economical to ship by rail, if you can, that business from that mill is available to the railroad for solicitation?

A. I never tried to convince a mill operator that he shouldn't ship by water if he wants to and ship by rail instead.

Q. I don't believe that answers the question. You never tried to, but the fact is it is open to solicitation?

A. You can go in and ask for it, but you certainly can't get it, I am afraid.

Mr. Maguire: It might help, Mr. Examiner, if we had a definition of what counsel means by "open to solicitation." You can ask for anything without any prospect of getting it, or if it is something that could reasonably be expected to move by rail on solicitation that would be another definition of it. The definition of the question is not clear.

By Mr. Rockwood:

Q. Every one of these mills that you talk about does some rail business, does it not?

A. No, not at the present moment, not at the time we [fol. 4157] are talking about. Well, I won't say that. They might do some rail business.

Q. Just picking one out of the blue, you referred to Blagen Mill Company. Where are they located?

A. They are at Hoquiam.

Q. Are they on water?

A. Yes, sir.

Q. Is that near Grace Harbor on the Pacific Coast?

A. It is on Grace's Harbor.

Q. Blagen Lumber Company, does it do any lumber business?

A. Yes.

Q. Where does it get its timber for sawlogs for its mill?

A. It buys them right on the Grace Harbor.

Q. From what owner?

A. Well, I don't believe that they buy exclusively from any one owner. They would buy from Rayonier, for one. I can't give you any more.

Q. Do they buy any timber from the Milwaukee?

A. They have bought timber in Milwaukee.

Q. They do use the Milwaukee as a rail carrier?

A. Yes, sir.

Q. Are they served by any other carrier than the Milwaukee?

A. They are served by all the lines jointly in Hoquiam.

Q. Do you know the extent which the Milwaukee gets the business as compared to the extent to which other rail [fol. 4158] carriers may get business at Blagen?

A. I think we get all the business that Blagen Mill can give us.

Q. That is what I understood.

I suppose all these mills that you talk about as being export mills truck lumber away from the mills to some extent?

A. I couldn't say, sir.

Q. Do any of them?

A. I can't tell you that.

Q. Do any of them sell locally through their retail yards?

A. I can't tell you that actually.

Q. Would you suggest as a correction of Mr. Tein's exhibit, that if any one mill ships any fraction, however great, of its product by truck away from the mill, or sells any portion of its output, however small, to its own retail yards, that such mill should be eliminated from the study?

A. Not the mill, but I would suggest that the percentage that they sell by truck or by retail yards should be eliminated.

Q. And it would be possible to do that without going to every mill and asking them?

A. It would not.

Q. Would the mills give you that information if you asked for it?

A. Some might; some might not.

Q. There are a great many of them that wouldn't give it [fol. 4159] to you if you asked for it?

A. That is right.

Q. Even as the Milwaukee witnesses in this case declined to furnish certain information relating to their own business?

A. I think they would figure that is not our business.

Q. If you are painting an overall panoramic picture, won't it cut about as far one way as another if you include all the mills in a particular area?

Mr. Maguire: Just a minute—

Mr. Rockwood: Please let the witness answer.

Mr. Maguire: I object to your question, if you don't mind.

Mr. Rockwood: I am asking him as one who made a criticism of a statistical exhibit.

Mr. Maguire: I am not questioning what you are trying to do. I want to object to the question, and that is that that is entirely an argumentative question, Mr. Examiner. What the witness has shown in his direct testimony here, we are not trying to build up an exhibit for the defendants in the case, and the defendants built up this exhibit themselves. We are showing where their faults are in the exhibit, but it is nothing to us. There is no burden upon us to repair the deficiencies of their exhibit, and I don't think this question is a proper one.

Mr. Rockwood: Mr. Examiner, if the witness feels qualified to criticize a statistical showing by a statistical argu- [fol. 4160] ment which he made, I think that I am entitled to ask him, even though Mr. Maguire believes that it is argumentative, as one who feels competent to talk statistics, a statistical question.

Exam. Dishman: Well, the witness may answer if he has any knowledge of the subject.

The Witness: Could I have the question read?

(Question read.)

By Mr. Rockwood:

Q. Errors one way will offset errors the other way, tend to offset each other?

Mr. Maguire: Mr. Examiner, I think in order to present that question fairly to the witness, counsel should first point out the compensating errors, and then ask his opinion which compensate for those criticisms which Mr. Wilson has leveled against him.

Exam. Dishman: I wondered if the witness really understands the question.

The Witness: I think I understand the question. I think that the exhibit contains the 100 percent capacity of every mill, that they were able to find list in Crow's Buyers and Sellers Guide.

By Mr. Rockwood:

Q. If we overstate the material available to the Milwaukee wouldn't you suspect us to overstate the quantity available to the rails in the Southern Pacific territory?

A. Yes. Where a mill is common with another railroad, the same overstatement would apply to the other railroad [fol. 4161] serving that mill.

Q. If we overstate it with respect to the material available to the Milwaukee solely wouldn't you expect under the application of the same methods to find a corresponding overstatement with respect to material available to the Southern Pacific solely?

A. Yes, sir.

Q. And overstatement similarly with respect to material available to the Great Northern, Northern Pacific, S. P. & S., and U. P.?

A. Yes, depending on the individual mill, I would say that there would be an overstatement, if the exhibit contains overstatements on certain mills, that would be true.

Q. So that the overstatements that you criticize would be overstatements with respect to substantially the mills in the exhibit? Or many of them?

A. I don't, Mr. Rockwood. The only ones I know about are the ones I mentioned.

Q. You did go down in Southern Pacific territory all on your own and make some criticism about overstatements, didn't you, when you talked about rough lumber?

A. Yes. I said that mills that cut rough lumber only, which they shipped largely to remanufacturing plants, should be eliminated.

Q. So there is overstatement of the Southern Pacific statement?

[fol. 4162] Mr. Maguire: Not of the same kind.

Mr. Rockwood: It is the same kind.

Mr. Maguire: I think the witness is entitled to know just what counsel is driving at, and not have a question which has a joker in it. I think I am entitled to call the witness's attention to jokers in any question asked regardless of whether counsel likes it, and I think, Mr. Examiner, that counsel has not shown similar overstatements such as mills which are out of business, or mills which are shipping partly by water on the Great Northern, Northern Pacific, or the Southern Pacific. He is assuming that to be the case, and arguing with the witness from there on.

I think the witness is entitled to have that called to his attention.

By Mr. Rockwood:

Q. What water ports are there at which you named mills which are served only by the Milwaukee? Any other than Port Angeles?

A. I don't believe so.

Q. So, so far as water shipments are concerned, that would affect the Great Northern, Northern Pacific, and Union Pacific to the extent that those mills serve export mills?

A. That is correct.

Q. For instance, at Longview, that is a mill of Long-Bell Lumber Company served by Great Northern, Northern Pacific, U.P., and Milwaukee?

[fol. 4163] A. Yes, sir.

Q. Any overstatement with respect to that mill by reason of inclusion of the total output of the mill would be an overstatement for all the four railroads, would it not?

A. I agree.

Q. And out on the Southern Pacific, you talk about mills at Tillamook. Tillamook is on the Oregon Coast, is it not?

A. Yes, sir.

Q. Is the Tillamook an export mill?

A. I don't know, sir.

Q. What about the mill at Gardner? Is Gardner on the Pacific Coast?

A. Yes, sir.

Q. Served by water?

A. Yes, sir.

Q. What about the mill at Toledo, C. E. Johnson Lumber Corporation, now owned, I believe the record shows, by Georgia & Pacific Plywood. Is that on a river?

A. It is on the river. I don't believe it is on the coast.

Q. Doesn't it get deep water shipping right into the harbor at Toledo?

A. I don't know.

Q. You don't know about Tillamook.

As a matter of fact, if we include those mills in their entire capacity in the statement we are overstating as to the [fol. 4164] quantity available to the Southern Pacific, are we not, if they are reached by water?

A. If they ship by water, you are, yes.

Q. Is Prescott, Ore., an export mill?

A. Not that I know of.

Q. Doesn't your own statement show that they exported so much—they exported so many feet of lumber?

A. They are not on the water. They truck lumber to Longview.

Q. That is right, but they do ship by water?

A. Yes, sir.

Q. If we include the entire capacity of a mill such as that, we are overstating so far as the S. P. & S. is concerned?

A. I believe you are.

Q. Are there any mills at other places on the Columbia

River served by the S. P. & S. not served by water? Do you know of any?

A. No.

Q. Do you know of any at Astoria?

A. No.

Q. Do you know of any at Astoria served by the S. P. & S., also by water, in the Portland switching limits?

A. Not by name.

Q. Are there any?

A. I presume there are some that would ship by water.

Q. To the extent we include the 100 percent capacity of [fol. 4165] those mills, we are overstating quantities available so far as the S. P. & S. is concerned?

A. And the other Portland lines.

Q. And the other Portland lines, which are the U.P., Great Northern, Northern Pacific, Southern Pacific?

A. Yes, sir.

Q. You define a transit operator on page 3886 in this language: "Generally, they operate on lumber that they buy from other mills." When you used the word "generally," did you mean to characterize the so-called transit operator as one, the majority of the output of which is of lumber sawed by other manufacturers?

Mr. Maguire: Just a moment. Before that question is submitted to the witness, Mr. Examiner, counsel has not entirely quoted Mr. Wilson's testimony, and I think the second sentence of that answer should also be made available to the witness.

Mr. Rockwood: I am glad to quote it.

"There are some transit operators who do both saw their own logs and remanufacture lumber in transit."

Well, now, in your classification of these companies as transit operators, or re-manufacturers, do you mean that more than half of their output is re-manufactured, and less than half is sawn right in their own plant?

The Witness: I have no information as to the percentage.

By Mr. Rockwood:

Q. You made no attempt to classify your re-manufac-
[fol. 4166] tures on any quantity basis?

A. Not generally; no, sir.

Q. Take Brooks-Scanlon Lumber Company at Bend, Ore. Are you familiar with the operation of that company?

A. Not to the extent that they do a transit business.

Q. You are not aware of the fact that Brooks-Scanlon Lumber Company has one of the largest mills in Oregon east of the Cascade Mountains?

A. Yes, sir; I know that.

Q. And they have a capacity at the Bend mill of some 200,000 feet in an eight-hour day?

A. Yes, sir; I believe that may be considered correct.

Q. And you do not know, I take it, whether they buy one carload or 20,000 carloads in a year for re-manufacture?

A. No, sir. I think those names that I gave were the people who are registered as active transit operators with the Transcontinental Freight Inspection Bureau.

Q. Let me ask about that a little bit.

If a man—I am probably pretty green on this subject, and you will have to bear with me if I ask questions which seem dumb.

A. You are not green.

Q. What do you have to do to get registered as a transit operator?

A. You have to express your intention to do a traffic
[fol. 4167] business, as I understand it, open an account. The Inspection Bureau looks at the plant and decides that—well, I don't believe they even inspect your plant.

Q. If you register as a transit operator, once registered you are always registered?

A. No, they take them off occasionally.

Q. If you register as a transit operator is it necessary to register any single car for transit?

A. You have—you mean to maintain—

Q. Maintain the classification or status.

A. I can't tell you how long they would leave your name on the books if you didn't operate as a transit operator.

Q. Suppose I am in the milling business, and today I go

over to the Bureau and I register myself as a transit operator. For the next five months I don't register a single carload for transit. I am still a transit operator, aren't I?

A. I think so.

Q. So that the mere fact that a mill is registered as a transit operator at any given moment is not proof of the fact that he is engaged in the so-called transit business at that time; isn't that correct?

A. At any particular time, it does not.

Q. What individual did you get this data from, these data with respect to who are or are not transit operators?

A. We sent a man to the Bureau office, and they called off [fol. 4168] the names and addresses of the transit operators, and we copied them down.

Q. For instance, Brooks-Scanlon, did you get permission of Brooks-Scanlon to disclose the records of Brooks-Scanlon as they appear in the Transcontinental Freight Bureau?

A. We didn't disclose the record. All we did was disclose their name.

Q. Did you get permission to disclose the fact they are even registered as a transit operator?

A. No, sir.

Q. Did you get permission of any one of these so-called transit operators?

A. No, sir.

Q. To disclose the fact that they have been registered as a transit operator?

Mr. Maguire: Just a moment before you answer that. That is immaterial, Mr. Examiner, because by no stretch of the imagination could the procuring of that information, or the disclosure of that information, be any violation of the Interstate Commerce law, none whatever, as to that bare fact.

Exam. Dishman: I think the witness has answered.

Mr. Rockwood: Is your statement a moment ago on the assumption that it discloses nothing with respect to the manner in which they do business?

Mr. Maguire: It is not in violation of any provision of [fol. 4169] the law. That is the statement I made.

By Mr. Rockwood:

Q. The fact is, however, that you went to the Transcontinental Freight Bureau and procured this information as to whether or not individual shippers all the way from north of Puget Sound to Southern Oregon, east and west of the Cascade Mountains, were or were not registered as transit operators?

A. That is true.

Q. And you did not attempt to get, and you do not have, the data to show whether any one of these mills which have registered have, in fact, transited a single carload of lumber in the last six months?

A. I have not the facts; no, sir; and I didn't so testify. I said that to the extent that they were, the percentage of their business was transit business, the tonnage available should be reduced.

Q. As a matter of fact, these figures included in the lumber Digest of the capacities of all those mills to manufacture in their own plant on an eight-hour basis, are they not?

A. They are cross-figures; yes, sir.

Q. That is the capacity of the mill on a one-shift-a-day, eight-hour shift?

A. If the figures are correct: that is so.

Q. That is what they purport to be, so that if a mill goes out and buys any material amount manufactured by others, and brings it into the plant, then the capacity figures of the [fol. 4170] mills are understated rather than overstated, are they not?

A. Well, to a certain extent. I think I can give you the names of some 100 percent transit operators whose figures are shown here.

Q. Well, I appreciate that there may be some who remanufacture entirely and don't have their own sawmill, but certainly Brooks-Scanlon—

A. To that extent, if their suppliers are listed in the exhibit, then it is an overstatement.

Q. To the extent the amount transited at a given mill is not included in the capacity figures there is an understatement; is that correct?

A. And the transit lumber of a hundred percent transit

operator is not available to all of the lines serving that on an equal basis.

Q. You mean—

A. It is only available to the railroad that brings in the raw material.

Q. You mean at the transit house?

A. That is correct.

Q. It is available to the railroads that serve the transit house?

A. No. It is not available to them. The only transit that is available at the transit house—

Q. I follow you.

[fol. 4171] A. Is the material that is brought in by that railroad.

Q. By the inbound railroad?

Mr. Maguire: Mr. Examiner, I would like to ask permission: from counsel's questions here it appears to me there is a misconception of his own exhibit, and I think I am entitled to ask counsel for his position upon a certain phase of it. That is this:

Do you claim, Mr. Rockwood, that in Exhibit 112, where it shows a certain capacity, that that only refers to lumber sawn from logs in that mill, or does it also include lumber which is remanufactured or finished from rough lumber that is shipped in?

Mr. Rockwood: I am perfectly willing to recognize that with respect to people who do primarily a remanufacture business, of which there are some included, that is probably a statement of the quantity that they can put out, including that remanufactured.

For an outfit like Brooks-Scanlon Lumber Company, I think the figure is intended to mean the capacity of the mill itself.

Mr. Maguire: If that is the case, there is no evidence in the record in connection with Exhibit 112 which justifies counsel in that conclusion. That is something he just picked out of the air.

Mr. Rockwood: If that is the fact then the quantities are understated to the extent that those particular mills [fol. 4172] remanufacture, if that is a fact.

Mr. Maguire: Just a moment, Mr. Wilson.

Mr. Examiner, counsel is asking the witness about a matter which is not covered by any testimony whatsoever, because in the explanation of Exhibit 112, by their own witness, and at no time since has there ever been any statement or any testimony in the record that these are understatements, or that the output of a mill does include not only or is restricted only to lumber, which is sawn from logs within that mill.

If a mill is putting out rough lumber and finished lumber, your capacity in the ordinary parlance, I would say, would be the amount of both that is made available for shipping. This is something that counsel apparently, as far as any evidence is concerned, has conjured up, and I don't think there is any foundation for a question of that kind.

Mr. Rockwood: I agree that there is nothing in the record that shows that if Brooks-Scanlon Lumber Company brings in a certain quantity for remanufacture, there is nothing in the record to show that the 200,000 capacity stated for Brooks-Scanlon is entirely their own manufacture. That is right.

Mr. Maguire: Then in that case, with that conception, then counsel is asking the witness about something which even he knows nothing about as to a theory or hypothesis which doesn't exist.

Exam. Dishman: It is conjectural.

[fol. 4173] Mr. Maguire: It is not based on anything.

Mr. Rockwood: We want to get out of town this afternoon. Let us go to something else.

By Mr. Rockwood:

Q. Come to Kingsley Lumber Company. What rails serve Kingsley?

A. I don't remember, Mr. Rockwood.

Q. Is that mill within the switching limits of Portland?

A. I believe so. I am not sure.

Q. Do you know whether or not it is a fact that that company operates a large saw mill at Linton, Ore.?

A. I don't know the size of their mill; no, sir.

Q. You picked on them simply because they are listed as a transit operator by Transcontinental Freight Bureau?

A. I gave their name in that list.
Q. That is all you know about the operation?
A. That is all.
Q. Come down to Jones Lumber Company.

Mr. Maguire: Could I interrupt just a moment?

Now, I think the pattern has been pretty well established about this, Mr. Examiner, if counsel really wants to get out of town this afternoon.

Mr. Rockwood: I don't.

Mr. Maguire: The witness has already said that he did not make any investigation as to any one of these so-called transit operators to determine the percentage. Now, you [fol. 4174] can't polish that up any further by naming them one by one.

Mr. Rockwood: Will you let me proceed so I can get you out of town?

Exam. Dishman: That would be your answer, wouldn't it, Mr. Wilson?

The Witness: It would.

By Mr. Rockwood:

Q. Jones Lumber Company, do they operate a saw mill?
A. I made no investigation of them.
Q. Do you know whether or not the fact is that Jones Lumber Company has a saw mill within the city limits of Portland?

Mr. Maguire: He said he didn't investigate.

Mr. Rockwood: I asked if he knew in any event.

The Witness: If their list is on our exhibit as located in Portland, I accept that.

By Mr. Rockwood:

Q. Does Dwyer Lumber Company own a saw mill?
A. I haven't the availability of this exhibit in front of me. I presume that they do if they are listed.
Q. Do you know what railroad serves Dwyer Lumber Company?
A. No, sir.
Q. Are they on the Portland Traction Company?

Exam. Dishman: He said he didn't know.
Mr. Rockwood: I am refreshing his recollection.

By Mr. Rockwood:

Q. You don't know?
A. No.
[fol. 4175] Q. I am going to run down through this list and I will try to get Mr. Maguire out of town on time.
Linnco Lumber Company, referred to page 3890, at Pirtle.
A. The same answer.
Q. Do they own a saw mill?
A. I didn't investigate.
Q. Does Capitol Lumber Company at Salem own a saw mill?
A. Same answer.
Q. Were you present during the testimony of Mr. Strickfadden at the Portland hearing who testified with respect to the operations of Capitol Lumber Company?
A. I don't believe I was there at the time.
Q. You were there during the hearing?
A. I was in and out of the hearing; yes, sir.
Q. Olympia Lumber Company at Eugene, does it own a sawmill?
A. I am pretty sure they do.
Q. J. P. O'Neil Lumber Company, do they own a sawmill?
A. Yes, sir.
Q. Edwards Brothers Construction Company at Albany, do they own a sawmill?
A. I don't know.
Q. Were you present during the testimony of Mr. Edwards who appeared as a witness at Portland?

Mr. Maguire: The witness answered he doesn't know.
Mr. Rockwood: Wait a minute. I know he did.

[fol. 4176] By Mr. Rockwood:

Q. Were you present at Portland during the testimony of Mr. Edwards who testified in February, 1955, in this

case relating to the operations of Edwards Brothers Construction Company?

A. I don't know whether I was or not, Mr. Rockwood.

Q. Over on page 3891, the second line says "Evans Lumber Company." I believe that should be corrected to read Edwards Lumber, Company. We were talking about Edwards Brothers Construction Company. There is no Evans mentioned anywhere.

Do you accept that correction?

Mr. Maguire: You asked the question, and if you meant Edwards I will accept it. That is the second line on page 3891, Edwards instead of Evans?

Mr. Rockwood: That is right.

By Mr. Rockwood:

Q. Come over to 3892. Is Gustaina Brothers—

A. It is spelled wrong, G-u-i-s-t—

Q. I believe you are right. Do they have a saw mill?

A. That is right.

Q. Were you present during the testimony of Mr. Sanderson at the Portland hearing who described the operations of Guistaina Brothers Lumber Company?

A. If I was I don't remember it.

Q. Does Morgan Lumber Company operate a saw mill?

A. At Eugene, I think so.

Q. Monroe Lumber Company at Eugene?

[fol. 4177] A. I think they do.

Q. Alexander Stuwart Lumber Company at Pineville?

A. Yes, sir.

Q. What railroad serves Pineville?

A. City of Pineville.

Q. Which is not a defendant in this case?

A. No, sir.

Q. As a matter of fact, Alexander Stewart Lumber Company is one of the larger pine operators in eastern Oregon, is it not?

A. Yes, sir.

Q. Consolidated Pine at Pineville, do they have a sawmill?

A. I don't know. One of those companies operates a planing mill only, or a moulding mill.

Q. Do you know?

A. I don't know.

Q. Do you know whether they are Consolidated?

A. No, sir.

Q. Alexander Stuart operates more than a planing mill, doesn't he?

A. Yes.

Q. Brooks-Scanlon, at Bend, aren't they one of the very largest of the pine manufacturers?

A. Yes.

Q. Do they operate a sawmill?

A. Yes.

[fol. 4178] Mr. Maguire: We are on Brooks-Scanlon for the third time. You are repeating.

By Mr. Rockwood:

Q. Diamond Lumber Company at Tillamook.

A. I don't know.

Q. Long-Bell Lumber Company at Vaughn? Do they have a sawmill?

A. Yes, sir.

Q. They are also located at Longview, Wash.?

A. Yes, sir.

Q. Do you know, incidentally, who owns the sawmill at Vernonia now?

A. Long-Bell.

Q. That is served by the S. P. & S.?

A. Yes, sir.

Q. Is lumber from the Vernonia mill shipped out and exported by Long-Bell through Longview?

A. I don't know, sir. I believe it is. I am not sure.

Q. So to the extent that we have included the Vernonia mill, in the tabulation, we have overstated the lumber available at the S. P. & S.?

A. If they shipped out by water, that is true.

Q. C. Johnson Lumber Company. Do you know what company owns that plant now?

A. Georgia & Pacific Company.

Q. And C. D. Johnson no longer exists as a corporation?

A. That is right.

[fol. 4179] Well, I guess that is correct.

Q. And you tell me, do you not, you do not know whether there is a deep water service available to Georgia Pacific at the Toledo mill?

A. No, sir. I have been there two or three times, or more than that, but I never saw their dock.

Q. There may be a dock?

A. There might be.

Q. You have never seen one?

A. No.

Q. Ralph Johnson Company at Veneta, do they have a sawmill?

A. I don't know.

Q. Kappler Lumber Company at Liberal, do they have a sawmill?

A. I don't know.

Q. What railroad do they serve or serves Liberal?

A. I couldn't tell you.

Q. Gardiner Lumber Company at Gardiner, Ore. I think you have said that that mill is on the Oregon Coast and has water service?

A. Yes, sir.

Q. Do they have their own sawmill?

A. Yes, sir.

Q. Gardiner Lumber Company at Reedsport. Is that the same company?

A. I think so. I think they have a sawmill.

[fol. 4180] Q. Do they have deep water service at Reedsport?

A. I think so.

Q. Which is on the Pacific Coast?

A. Yes, sir.

Q. What railroads serve Gardiner at Reedsport?

A. Southern Pacific, I believe.

Q. Only; is that right?

A. That is right.

Q. Edward Hines Lumber Company at Westfir. Do they have a sawmill?

A. Yes, sir.

Q. Evans Products Company at Coos Bay. Do they have a deep water service at Coos Bay?

A. I think they do.

Q. What railroad serves Evans Products?

A. Southern Pacific.

Q. Do they operate a sawmill?

A. Yes, sir.

Q. Do they have a plywood plant, do you know?

A. I believe they do.

Q. Fall Creek Lumber Company at Fall Creek, Ore., what railroad serves that?

A. I couldn't tell you.

Q. Do they have a saw[illegible]

A. I don't know.

[fol. 4181] Q. Fischer Lumber Company at Marcola, what railroad serves it?

A. Southern Pacific.

Q. And do they have a sawmill?

A. Yes, sir.

Q. I don't know where Marcola is. Do they have deep water service, or is it in the valley?

A. I don't think so.

Q. Marcola is on the line south of Eugene. Do you know? I don't.

A. I don't, to tell you the truth.

Q. Custom Lumber Company at Springfield, do they have a sawmill?

A. I have never seen their plant direct.

Q. You don't know whether they have a sawmill or not?

A. No, sir.

Q. Diamond Lumber Company at Springfield. Do you know whether or not it has a sawmill?

A. I am pretty sure they do.

Q. Digger Mount Lumber Company—let us go back. What railroad serves Springfield?

A. Southern Pacific.

Q. Only?

A. Yes, sir.

Q. Digger Mountain Company at Corvallis. Does it have a sawmill?

[fol. 4182] A. I am not sure about the sawmill part of that.

Q. You just don't know?

A. No.

Q. Commercial Lumber Sales, Inc., at Dillard, and Consumers Cooperative Association at Swisshome. Do they have sawmills?

A. I think they do.

Q. Both served by the Southern Pacific, solely by the Southern Pacific; is that right?

A. I think so.

Q. Are they not big buyers of lumber located in the middle west who deal almost entirely in rough green lumber?

A. I can't answer that.

Q. Did you ever hear of Wheeler Lumber Bridge & Supply Company at Des Moines, Iowa?

A. Yes, sir.

Q. They deal in bridge timbers and rough green planks, do they not?

A. I am pretty sure they do.

Q. And they buy many hundreds of cars a year?

A. I couldn't tell you, sir.

Q. Do you know, or can you tell me whether or not the fact is that they have some eight or ten branch offices in the Iowa-Nebraska territory?

A. No, Mr. Rockwood, I can't tell you about their branches.

Q. You don't know whether they have or not?

[fol. 4183] A. No. I don't know whether they have branches in Iowa.

Q. You gave a list yesterday of 29 mills located on the Southern Pacific that you classified as rough green mills only. Do any of those mills ship their material by rail to ultimate consumers without shipping to remanufacturers?

A. I would say that they ship more to remanufacturers than they do in the retail trade.

Q. Have you got the list there of the 29 that you talked about yesterday?

A. No, I haven't. You told me that they were on the Southern Pacific and not involved, so—

Q. I didn't say they were not involved. I said they were all on the Southern Pacific. You left that one home?

A. Yes, sir.

Q. You don't have it with you now?

A. No, sir.

Q. Could you tell me for say right this moment that for any one of the 29 mills listed in your sheet that you do not have with you now there are any that ship 100 percent of their output by rail direct to consumers without shipping to remanufacturers?

A. Not by name, I couldn't, sir.

Q. You can't say that there are none of the 29 that do business in that way, can you?

A. In what way?

Q. That sell their lumber direct without selling through [fol. 4184] remanufacturers?

A. I can't say that there are none; no, sir.

Q. Are there not some remanufacturers located in the middle western territory that buy rough green lumber from the coast and remanufacture for themselves?

A. My impression is that they buy dry lumber, the remanufacturers I am thinking of, such as the sash and door plants.

Q. Aren't there some manufacturers with planing mills in the Middle West, do you know, that buy rough green?

A. Yes, there are planing mills. I don't think anybody—well, I won't say anybody, pardon me—I think there are a number of remanufacturers in the Middle West who do not buy rough lumber, rough green lumber, because of the difference in the weight and freight charges.

Q. There are some that do?

A. There may be.

Q. And you can't tell us whether there are or are not?

A. There are and there are not.

Q. Just so that we will be clear, and Mr. Maguire won't criticize me for being repetitious—

Mr. Maguire: We have gotten past that.

By Mr. Rockwood:

Q. Your only basis for classification of a mill as a rough green mill selling to remanufacturers is the fact that that mill does not have a dry kiln and does not have a planing mill; is that right?

[fol. 4185] A. Not in that particular case. That is an explanation, that they cut rough green lumber, but the mills that were given to me were names of mills that we secured from people who got lumber from there for manufacturing purposes.

Q. Who got that information for you?

A. Our representative at Portland.

Q. And how many people did he deal with in getting or accumulating the information?

A. I am sorry. I couldn't tell you.

Q. Would 29 mills be exaggerating if I said that he went to 29 people to pick up information?

A. No, he gave me a much bigger list than that, and if I remember correctly the 29 mills were the ones that we could find on Exhibit 112. I believe that was the reason for that number.

Q. Out of 112 there were 29 so he talked to 29 people to get that information?

A. I don't think he did.

Q. You personally don't have the information that was accumulated for you in that manner?

A. No, sir; I do not.

Q. And you personally don't have any information as to the nature of the business done by any one of these 29 mills?

A. No, sir; it was furnished by our Portland representative.

Mr. Maguire: I think there was a ruling upon that on the 21st, Mr. Examiner, that Mr. Rockwood objected to this, [fol. 4186] and I stated that on page 3896 "I think that is an investigation made under his supervision," Mr. Wilson's supervision, "and is inadmissible under the rules of evidence."

And the Examiner stated "It will be allowed to stand. Proceed."

Mr. Rockwood: I didn't move to strike. I just wanted to know what weight should be given to this testimony.

By Mr. Rockwood:

Q. Coming back to Mr. Holden for a minute, I hand you the three yellow sheets that you kindly loaned to me yesterday, which contain a series of car numbers and dates, separated by months. I think you said yesterday—and if you didn't I would like to ask you, are you able to tell from that list the numbers of the cars which moved other than by the S. P. & S.?

A. No, sir. I am not able to say anything about this list except that it was made up—no, I can't tell you.

Q. Who prepared that list for you, the yellow list?

A. The girl in the accounting office in Longview.

Q. Do you know or were you present while she compiled it?

A. No, sir.

Q. She typed it up and sent it to you?

A. Yes, sir.

Q. Do you know what records she had before her when she typed that list?

A. Yes, sir.

[fol. 4187] Q. What records?

A. It was a book purporting to be the shipping book from the Prescott mill for the months in question.

Q. What are the documents in the shipping bill—from the Prescott mill?

A. Yes.

Q. It includes some grain doors, didn't it?

A. Yes, sir.

Q. That wasn't from the Prescott mill?

A. No. Those were from Longview.

Q. So they included a good deal of material other than shipping orders from the Prescott mill?

A. Yes, sir. It was a list in their book of the dates, the car numbers, the consignee or the purchaser's name, the number of feet of lumber in the car, and it was given to me as a book showing the shipments that the Prescott mill had made.

Q. Was that a tabulation of all these cars and a single series of sheets?

A. No, it was a separate sheet for each month.

Q. Separate sheet for each month?

A. Yes.

Q. That shipping list was not, or did not contain the actual shipping orders signed?

A. No, sir.

Q. And did not include any freight bill?

[fol. 4188] A. No, sir; just the book record, the shipping record.

Q. That is the thing from which these yellow sheets were compiled?

A. Yes, sir.

Q. Now, this includes some grain doors shipped out of Longview?

A. Yes, sir.

Q. And you can't tell me the car numbers of the grain doors shipped out of Longview?

A. No, sir.

Q. This isn't going to make a great deal of difference, but do you notice duplication of Milwaukee 76977 on October 18th?

A. I notice it now.

Q. Are you able to give us the car number of North Western car at the bottom of the month of October, that kind of ran off the sheet so that we don't have the date.

A. No, sir.

Q. Are you able to give us the car number of the SLBM car on July 8, 1954?

A. No, sir.

Q. When was the first time that you visited the Holden Mill?

A. I can't tell you the date. It was last year some time.

Q. Was it after Mr. Holden testified a year ago, or after Mr. Ehlen testified in February of this year, your first visit?

A. '54.

Mr. Maguire: Are you talking about the first visit he [fol. 4189] made in connection with this particular matter?

Mr. Rockwood: The first visit he made to the Holden mill to investigate this particular subject of shipments by the Holden mill in the year '54.

By Mr. Rockwood:

Q. When was the first time?

A. June 3d.

Q. That was the first time you were down there?

A. In connection with this matter; yes, sir.

Q. And when was the last time you had been at the Holden plant prior to that?

A. I can't tell you.

Q. Was it after he testified at the June hearing in Portland a year ago?

A. No, it was before.

Q. So that you of your own knowledge have no information as to the extent or the period during which the Prescott mill was sawing lumber after the first of July, 1954?

A. No, sir.

Q. Was the mill sawing lumber on June 3d?

A. No, not on that particular date. They were broke down with a condenser plugged up, or something.

Q. Do you know how long they had been down?

A. That date.

Q. Do you know how long they had been operating continuously prior to June 2nd? Do you know?

[fol. 4190] A. They made their first lumber shipment on March 8th. I don't know of my own knowledge the number of days that they actually operated.

Q. The first lumber shipment in the year '55, on March 8th?

A. I believe that was the date. I haven't the memorandum here.

Q. But you don't know the extent to which they had been operating before or after that, how many shipments they made after March 8th?

A. Thirty-three cars, I believe.

Q. Up to June 3d?

A. Yes, sir.

Q. That is in three months' period?

A. That is right.

Q. If my arithmetic is correct, that is about ten cars a month?

A. Almost eleven.

Mr. Rockwood: That is all I have.

Exam. Dishman: Is there any more cross-examination?

Mr. Musenbrock: I have some questions.

Exam. Dishman: Off the record.

(Discussion off the record.)

Exam. Dishman: All right, proceed.

By Mr. Musenbrock:

Q. Mr. Wilson, on pages 3876 and 3878, you gave some opinions as to what the granting of this petition would mean to the Western Trunk Line carriers naming spe- [fol. 4191] cifically the four lines, Burlington, Rock Island, North Western, and M. & St. L., and you stated that your opinion is that the granting of this petition would not have any effect at all on the traffic that was available to the solicitors of the Minnesota Transfer lines who are party to this proceeding. That is on page 3876, and on page 3878 you include the Milwaukee as a Minnesota Transfer line.

At the present time the Milwaukee enjoys Minnesota Transfer business of the S. P. & S. as do these other carriers, do they not?

A. Yes, sir.

Q. And they would continue to do so from Mr. Engel's testimony, even if the application here were successful?

A. Yes, sir.

Q. Well, now, should you not differentiate between the Milwaukee and other Minnesota Transfer lines? That is, the W.T.L. carriers, and I am going to ask you specifically shouldn't you differentiate between the Milwaukee and the M. & St. L. in the event this complaint is successful, as in your opinion?

A. I don't think so. We would still be soliciting that business.

Q. Whatever the Milwaukee would lose, that is, would lose from traffic that would not move over the G.N. and

N. P., they could recoup on their single-line haul from Spokane, could they not?

[fol. 4192] A. You will have to give me that again.

Q. At the present time, whatever the Milwaukee gets off the S. P. & S. on the joint rates—let us forget this single-factor rate for instance of the Milwaukee into Iowa points; that is, these points that are marked in yellow on Mr. Ehlen's Exhibit 28—let us forget those, and let us think of the overhead business to the South and Southeast in Official territory. Whatever business the Milwaukee gets now off the S. P. & S. they get through Minnesota Transfer and off of the G.N. and N.P.; isn't that correct?

A. That is right.

Q. If you are successful in this case you wouldn't have to wait to get that from the G. N. or the N. P. at Minnesota Transfer. You could get it at Spokane, could you not?

A. We certainly could try.

Q. You would solicit it, would you not?

A. Yes, sir.

Q. So to the extent that you could solicit this business off the S. P. & S., via Spokane, you are in different light than the M. & St. L. who could not solicit west of the Twin Cities? Isn't that true?

A. You couldn't solicit west of the Twin Cities, and we could.

Q. That is right, so that the Milwaukee as a Minnesota Transfer Line is in a little different position than the [fol. 4193] M. & St. L., so far as the effects of this complaint is concerned; is that correct?

A. You could solicit business that we get at Spokane away from us at Minneapolis.

Q. That goes to the question of whether we can get away business from you that you already have. I am speaking of business that comes off the S. P. & S. originally at the present.

A. You get business away from us now that we already have.

Q. At the present time all we can hope off the S. P. & S. is to solicit against the Milwaukee at the Twin Cities; isn't that correct?

A. You do that now.

Q. Isn't that correct?

A. You do that; yes, sir.

Q. If you are successful here we still can solicit against you at the Twin Cities?

A. Yes, sir.

Q. But you can also solicit against us at Spokane, can you not?

A. You can't solicit at Spokane.

Q. That is exactly the point.

A. We are not soliciting against you at Spokane.

Q. So when you say that in your opinion there would be no adverse effect on the Minnesota Transfer carriers, you lumped the M. & St. L. with the Milwaukee in that opinion, do you not?

[fol. 4194] A. That is right.

Q. Now—

A. The only difference between us, there would be three railroads bringing the business in for the M. & St. L. instead of two.

Q. And you minimize that in your opinion, that is the only difference, and you minimize that?

A. No, I don't minimize it.

Q. The Aberdeen gateway will not be open to the M. & St. L. to solicit west of Twin Cities, will it?

A. I don't see there would be any change in the situation. Engel testified that the same gateways that would be open to us are now opened from Spokane.

Q. Do you know to what extent the Aberdeen gateway is now open to the M. & St. L.?

A. No.

Q. You do not know?

A. No.

[fol. 4195] Q. You mentioned that there were eight St. Louis railroads who actively solicited business out on the West Coast, on page 3876.

A. I did.

Q. And when you mentioned those eight lines you said that all those railroads involved have representatives in the Northwest who are actively soliciting this traffic in that territory.

A. Yes, sir.

Q. That is not only St. Louis, but St. Louis territory and Southeast?

A. Yes, sir.

Q. Now at the present time, on SP&S business to St. Louis and the Southeast, where does the Milwaukee get that business?

A. Ask me that again.

Q. As to business off of the SP&S moving to St. Louis and the southeast, where does the Milwaukee now get that business as a carrier?

A. If we get it; we get it at Minnesota Transfer.

Q. In the event that you are successful, you would get it at Spokane, would you not?

A. Yes, sir.

Q. And you could haul it to Des Moines, could you not?

A. We could.

Q. And you could haul it to Dubuque, could you not?

A. We could.

[fol. 4196] Q. At Des Moines you could give it to the Wabash with a direct haul to St. Louis?

A. No. The shipper would give it to the Wabash at Des Moines.

Q. I am talking about the reasible (sic) and open routes with these carriers.

A. We couldn't give it to anybody that wasn't shown on the bill of lading.

Q. Won't you, in the event that this tariff becomes effective, make Des Moines an interchange point with the Wabash?

A. It is now.

Q. All right. So that a shipment then could be routed—and I am using your language—a shipment could be routed Des Moines-Wabash to St. Louis?

A. If a shipper wanted it that way, it would move that way.

Q. It cannot do so now?

A. Not from Spokane by our line.

Q. I am speaking off the SP&S by your line.

A. They couldn't do it now.

Q. Could they do it now via Dubuque and the Great West-

ern to the Southeast on a single-factor through rate at the present time?

A. Not via Spokane and our railroad.

Q. If you are successful here, it could be done, could it not?

A. It could be.

Q. Can it be done off the SP&S via Spokane to Omaha, [fol. 4197] Missouri Pacific, St. Louis, and Southeast, at the present time?

A. By the shipper, it could be.

Q. At the present time?

A. No. Pardon me.

Q. Not at the present time?

A. I guess not.

Q. But if you are successful here, it could be?

A. It could be so done.

Q. All of those movements, either to Des Moines, Omaha, or Dubuque, could bypass the Twin Cities on available Milwaukee routes, could they not?

A. If the shipper said so, yes.

Q. You stated in the record that the Milwaukee obtained —page 3878—almost five thousand cars of freight from Minnesota Transfer Lines eastbound, which you were able to secure in competition with the other Minnesota Transfer lines. You stated that. Do you recall that?

A. I think so.

Q. You meant by that that you obtained off of the GN and NP approximately 5,000 cars on this competitive Minnesota Transfer business to the South, Southeast and Official Territory; is that right?

A. Well, I had the Soo Line and it is to all territory east of Minnesota Transfer.

Q. Let's say all Minnesota Transfer lines, which would [fol. 4198] include some of those that are not here, like the Great Western and the Soo Line. You included them, did you?

A. Yes; anything that we received in interchange.

Q. Would you hope to continue to receive that business, 5,000 cars, off the GN and NP?

A. Yes, sir.

Q. Minnesota Transfer?

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON FOREIGN LINES AND TERMINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

3120 [fol. 4213]

. Via Chicago, Ill. and Minnesota Transfer, Minn. (Continued)

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
761	Candy and Confectionery	2	$ 2,764.80	$ 327.78
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	15	18,705.75	2,192.18
767	Starch	1	1,314.04	184.93
769	Soap and Cleaning and Washing Compounds	2	1,929.48	235.08
773	Feed, Animal and Poultry, N.O.S.	1	668.96	74.07
779	Containers, Metal	1	1,370.05	169.54
799	Manufactures and Miscellaneous, N.O.S.	10	13,362.07	1,820.37
	TOTAL	263	$309,681.45	$39,281.67

Via Delmar, Ill. and Minnesota Transfer, Minn.

799	Manufactures and Miscellaneous, N.O.S.	1	$ 1,059.93	$ 146.03

Via Dubuque, Iowa and Minnesota Transfer, Minn.

773	Feed, Animal and Poultry, N.O.S.	1	$ 715.09	$ 65.09

Via Franklin Park, Ill. and Minnesota Transfer, Minn.

21	Cereal Food Preparations, N.O.S.	1	$ 924.41	$ 132.70
533	Sodium (Soda) Products	1	793.20	112.18
547	Paint, Paint Material, Putty, and Varnish	1	873.61	120.36
561	Copper, Brass, and Bronze, N.O.S.	6	9,519.00	1,311.48
583	Manufactured Iron and Steel	1	979.84	133.22
587	Iron and Steel Pipe and Fittings, N.O.S.	1	1,096.92	131.22
613	Automobiles, Passenger	4	6,977.06	1,001.56
615	Automobiles, Freight	15	13,791.45	1,979.76
623	Vehicle Parts, N.O.S.	3	3,565.21	507.43
663	Paper Bags	1	886.40	106.04
665	Paper and Paper Articles, N.O.S.	6	4,428.63	577.92
671	Wallboard	3	2,505.70	321.52
679	Building Materials, N.O.S.	I	1,046.45	148.51
695	Glassware, N.O.S.	2	1,884.03	259.57
715	Furniture, N.O.S.	3	2,248.86	301.83
745	Liquors, Alcoholic, N.O.S.	1	1,977.78	283.91
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,184.96	141.75
779	Containers, Metal	1	634.80	91.33
799	Manufactures and Miscellaneous, N.O.S.	1	552.39	68.34
	TOTAL	53	$55,870.70	$ 7,730.43

Via Franklin Park, Ill. and Minnesota Transfer, Minn.

21	Cereal Food Preparations, N.O.S.	1	$ 924.41	$ 132.70
533	Sodium (Soda) Products	1	793.20	112.18
547	Paint, Paint Material, Putty, and Varnish	1	873.61	120.36
561	Copper, Brass, and Bronze, N.O.S.	6	9,519.00	1,311.48
583	Manufactured Iron and Steel	1	979.84	133.22
587	Iron and Steel Pipe and Fittings, N.O.S.	1	1,096.92	131.22
613	Automobiles, Passenger	4	6,977.06	1,001.56
615	Automobiles, Freight	15	13,791.45	1,979.76
623	Vehicle Parts, N.O.S.	3	3,565.21	507.43
663	Paper Bags	1	886.40	106.04
665	Paper and Paper Articles, N.O.S.	6	4,428.63	577.92
671	Wallboard	3	2,505.70	321.52
679	Building Materials, N.O.S.	1	1,046.45	148.51
695	Glassware, N.O.S.	2	1,884.03	259.57
715	Furniture, N.O.S.	3	2,248.86	301.83
745	Liquors, Alcoholic, N.O.S.	1	1,977.78	283.91
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,184.96	141.75
779	Containers, Metal	1	634.80	91.13
799	Manufactures and Miscellaneous, N.O.S.	1	552.39	68.34
	TOTAL	53	$ 55,870.70	$ 7,730.43

Via Granger, Iowa and Minnesota Transfer, Minn.

591	Agricultural Implements, N.O.S.	1	$ 834.90	$ 91.84
593	Agricultural Implement Parts, N.O.S.	1	769.56	84.65
	TOTAL	2	$ 1,604.46	$ 176.49

Via Kansas City, Mo. and Minnesota Transfer, Minn.

411	Lumber, Shingles, and Lath	5	$ 3,123.10	$ 380.39
677	Building Woodwork and Millwork	1	581.95	68.49
715	Furniture, N.O.S.	1	691.44	100.40
	TOTAL	7	$ 4,396.49	$ 549.28

A. Yes.

Q. In the event you are successful here?

A. Yes, sir.

Q. You don't think that the number of cars that GN and NP would handle would be reduced over the Minnesota Transfer?

A. I don't know what they would handle but we would hope to get that much business from them.

Q. If you get 5,000 cars and their tonnage is reduced, then it is taken out of the hide of some of the other lines, isn't it?

A. No, because you might—some of the other lines might get similar offset by taking business away from us at the transfer.

Q. There is only a certain volume of business that would come off the SP&S. If you divide that by three ways instead of two ways, each one of those lines will get less than they get at the present time; isn't that obvious?

A. I hope they divide it three ways. It would depend on the lines east of Minnesota Transfer's solicitation effectiveness as to how much of it they would get.

[fol. 4199] Q. You think that you would still continue to get 5,000 cars off the GN and NP at Minnesota Transfer even if you were successful here?

A. You didn't say "think". You said "hope" and I said "hope".

Q. You hope to still get 5,000 cars?

A. Yes, sir.

Mr. Musenbrock: That is all I have.

Exam. Dishman: Any other questions?

Mr. Boe: No questions.

Exam. Dishman: Mr. James.

Mr. James: No questions.

Exam. Dishman: Mr. Boe?

Mr. Boe: No questions.

Exam. Dishman: Any other questions?

Mr. Maguire: Just a couple of questions, Mr. Examiner.

Redirect examination.

By Mr. Maguire:

Q. Mr. Wilson, you made the statement, in response to Mr. Musenbrock, that you can not solicit SP&S business at Spokane. Who are you talking about when you say you can not solicit? Who were you talking about when you said you can't solicit at Spokane, the SP&S business, business originating on the SP&S?

A. The Milwaukee road solicitors.

Q. Can anybody at Spokane, Washington, solicit business which arises down on the SP&S in Oregon?

Mr. Musenbrock: That is outside the issue here. The [fol. 4200] witness and I were talking about Milwaukee. That is irrelevant.

Mr. Maguire: Then your entire cross examination was irrelevant. I am following the subject you did. I am trying to clarify it.

Exam. Dishman: Are you asking questions for clarification?

Mr. Maguire: This is redirect. I am entitled to ask questions about what Mr. Musenbrock asked himself.

Exam. Dishman: Do you understand the question?

The Witness: No, I don't.

By Mr. Maguire:

Q. Mr. Wilson, do you recall when Mr. Musenbrock was talking about solicitation of traffic off the SP&S, that you made the remark that you can not solicit that kind of business at Spokane; do you remember saying that?

A. I think I do, yes, sir.

Q. Did you mean that the M. & St. L. can't do it or the Milwaukee can't do it, or that nobody can do it?

Mr. Musenbrock: Just a minute. Right there is my objection. I was speaking of the M. & St. L. and the Milwaukee.

By Mr. Maguire:

Q. Did you mean the M. & St. L.?

A. Yes.

Q. Did you mean the Milwaukee or did you mean both of them when you said "You can not solicit SP&S business at Spokane?

A. I meant the M. & St. L.

Q. Now is there any soliciting done in the town of Spokane for SP&S business?

[fol. 4201] A. No.

Q. By anybody?

A. No.

Q. And so far as these Iowa gateways and Aberdeen gateways, etc., that Mr. Musenbrock was talking about, and you said shipments could move, is the routing of those shipments determined by the carrier who gets ahold of it, an intermediate carrier who gets a long haul to a destination point, such as we would, or is it determined by the shipper?

A. The shipper gets the routing on the bill of lading that he wants.

Q. And how is that routing determined? Is that determined by solicitation of connecting and terminal carriers, or delivering carriers, or is it done without solicitation?

A. Some of it is done without solicitation, some of it is done in response to solicitation by terminal carriers, and some in response to solicitation by intermediate carriers.

Q. Does the fact that one carrier happens to haul it for 1500 miles, you might say, does that have any bearing, so far as the actual routing is concerned, by the shipper?

A. The shipper sometimes tries to pacify all of his railroad soliciting friends by dividing up the haul on individual cars, yes, so if one line hauled the car for 1500 miles, the shipper might give the intermediate haul to somebody else for any one of several reasons which might be to his advantage.

[fol. 4202] Mr. Maguire: That is all.

Exam. Dishman: Is that all of this witness?

(No response.)

Exam. Dishman: The witness is excused.

(Witness excused.)

Mr. Maguire: Mr. Examiner, at this time under the provisions of Rule 81, I would like to have incorporated by reference in the record here the following portions of certain reports or other documents which are on file with the Commission and open to public inspection.

I am referring to the annual reports rendered to the ICC by—or portions of the annual reports of the SP&S Railway, the Great Northern and Northern Pacific Railways. I would like to incorporate by reference schedule 200(a) of the annual reports for 1953 and 1954, of the SP&S Railway; Schedule 200(a) is generally described as "Investment in Transportation Property."

I would also, for the same years, for the same company, like to have incorporated in the record Schedule 300, from the annual reports of the SP&S, which is the income account of the SP&S.

As to the annual reports of the Great Northern and Northern Pacific, I should like to have incorporated by reference for the two years, 1953 and 1954, Schedule 217, which is entitled "Investment in Affiliated Companies."

Mr. Torinus: Schedule 217?

[fol. 4203] Mr. Maguire: 217.

Mr. Torinus: Might we have a moment to confer on that, Mr. Examiner?

Exam. Dishman: All right.

(Discussion off the record.)

Exam. Dishman: On the record.

Have you reached a decision?

Mr. Rockwood: I haven't reached a decision, but I will make a statement. The rule which Mr. Maguire quoted was Rule 81: "If any matter contained in a report or other document not a tariff or schedule open to public inspection in the files of the Commission is offered in evidence, such report or other document need not be produced, but in other respects the provisions of Rule 80 will apply."

Mr. Maguire: I think I should amend my offer, that I do offer those portions in evidence. I said to incorporate them in the record: I spoke loosely.

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON FOREIGN LINES AND TERMINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Rondout, Ill. and Minnesota Transfer, Minn. (Continued)

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
623	Vehicle Parts, N.O.S.	1	$ 820.49	$ 95.82
695	Glassware, N.O.S.	1	1,121.32	142.83
707	Refrigerators, Freezing Apparatus, and Parts	1	614.38	64.37
745	Liquors, Alcoholic, N.O.S.	1	1,104.00	136.72
	T O T A L	34	$ 37,931.48	$ 5,507.83

3122 [fol. 4215]

Via Spaulding, Ill. and Minnesota Transfer, Minn.

583	Manufactured Iron and Steel	1	$ 979.47	$ 120.87
685	Electrical Equipment and Parts, N.O.S.	2	9,709.61	1,312.44
	T O T A L	3	$ 10,689.08	$ 1,433.31

Via Tomahawk, Wis. and Minnesota Transfer, Minn.

767	Starch	1	$ 857.94	$ 115.18

Via Webster, Ill. and Minnesota Transfer, Minn.

617	Vehicles, Motor, N.O.S.	1	$ 1,946.92	$ 271.39

Via Winona, Minn. and Minnesota Transfer, Minn.

583	Manufactured Iron and Steel	19	$ 17,868.72	$ 1,039.82
587	Iron and Steel Pipe and Fittings, N.O.S.	12	19,331.45	912.18
595	Machinery and Machines, N.O.S.	1	1,056.12	44.22
695	Glassware, N.O.S.	1	847.84	36.72
779	Containers, Metal	1	1,387.81	65.72
783	Containers, Fibreboard and Paperboard, KD	1	654.33	37.79
799	Manufactures and Miscellaneous, N.O.S.	1	720.50	34.74
	T O T A L	36	$ 41,866.77	$ 2,171.19

Via Cedar Rapids, Iowa and Sioux City, Iowa

617	Vehicles, Motor, N.O.S.	2	$ 1,524.05	$ 122.94

Via Chicago, Ill. and Spokane, Wash.

527	Chemicals, N.O.S.	1	$ 1,149.89	$ 663.43

Via Franklin Park, Ill. and Spokane, Wash.

Mr. Rockwood: This rule relates to a report or other document. It did not refer to excerpts of a report or excerpts from documents. If Mr. Maguire offers in evidence the annual reports in total of the SP&S Lines, the Great Northern and the Northern Pacific, and if he likewise will submit the annual reports in total for the complainant, Milwaukee, for the same years, I will not object.

Mr. Maguire: All Rule 81 says: "In other respects the [fol. 4204] provisions of Rule 80 will apply." That is what Rule 81 says as to the offering in evidence of matter contained in a report or other document."

It doesn't say the entire report and document. It says, "if matter contained", and "subject to Rule 80." It says, "when material and relevant matter offered in evidence is in a document contained in another document not material or relevant, the offering party shall produce the document at the hearing, shall plainly designate the matter so offered", the portion of it, "and shall accord to the officer and participating counsel an opportunity to inspect it." That was from Rule 80.

Now, Rule 81, that contemplates offer of part of a document, and I am offering under Rule 81 matter contained in a report or document. That is, the three schedules which I mentioned. I am not obligated to put the whole report in.

Exam. Dishman: You are asking the opposing counsel to agree to a stipulation, are you not?

Mr. Maguire: I am not asking them to agree to a stipulation, I am sorry, Mr. Examiner. I am offering the schedules which I have designated, which is matter contained in a report in evidence in this case, but the document, report or document, need not be produced.

I am offering that as evidence in this case. Now, if counsel want the rest of the annual reports of all three companies—

[fol. 4205] Mr. Rockwood: And your company.

Mr. Maguire: And our company—in evidence, I have no objection.

Mr. Rockwood: Let's do it that way.

Mr. Maguire: All right. May it be understood that the annual reports of all four of the companies in question for

the two years, 1953 and 1954, will be in evidence in this case?

Exam. Dishman: Incorporated by reference; is that right?

Mr. Rockwood: In evidence.

Mr. Maguire: They are in evidence and, of course, they are naturally incorporated by reference.

Mr. Rockwood: O. K.

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1.4210]

CHICAGO, MILWAUKEE, ST. PAUL AND ~~PACIFIC RAILROAD COMPANY~~
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY AND TERMINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Minnesota Transfer, Minn.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
15	Flour, Wheat	1	$ 1,036.37	$ 187.80
19	Flour, Edible, N.O.S.	13	11,340.49	2,028.26
45	Soybean Oil Cake and Meal	1	832.18	42.17
215	Meats, Fresh, N.O.S.	6	5,450.01	841.33
217	Meats, Cooked, Cured, Dried, and Smoked	6	5,986.13	914.81
219	Packing House Products, Edible, N.O.S.	1	700.17	84.72
221	Margarine, N.O.S.	7	7,451.47	1,214.99
231	Cheese	5	4,496.64	803.49
233	Dairy Products, N.O.S.	1	770.39	127.11
299	Animals and Products, N.O.S.	2	2,564.56	423.15
307	Coke	3	1,283.79	305.17
329	Stone and Rock: Broken, Ground, and Crushed	5	3,245.41	536.09
499	Products of Forests, N.O.S.	1	683.59	112.79
507	Petroleum Products, Refined, N.O.S.	1	980.50	161.78
513	Linseed Oil	2	1,567.38	224.67
547	Paint, Paint Material, Putty, and Varnish	1	1,660.41	271.84
557	Aluminum, N.O.S.	1	793.76	96.04
583	Manufactured Iron and Steel	7	7,317.89	1,207.45
589	Tanks, N.O.S.	1	965.03	159.23
591	Agricultural Implements, N.O.S.	20	22,342.53	3,442.19
593	Agricultural Implement Parts, N.O.S.	1	977.04	161.21
595	Machinery and Machines, N.O.S.	41	53,834.96	9,307.14
611	Vehicles, Other Than Motor	69	66,486.59	10,970.28
615	Automobiles, Freight	3	3,912.27	645.52
617	Vehicles, Motor, N.O.S.	6	6,058.51	875.55
623	Vehicle Parts, N.O.S.	2	2,380.25	392.74
631	Ammunition and Explosives	1	3,222.40	531.70
659	Printing Paper, N.O.S.	1	823.14	577.15
665	Paper and Paper Articles, N.O.S.	2	1,531.37	252.68
667	Printed Matter, N.O.S.	5	5,001.38	825.23
687	Furnaces, Heaters, Radiators, and Parts	3	2,107.74	347.78
705	Household Utensils, N.O.S.	3	2,479.50	409.12
707	Refrigerators, Freezing Apparatus, and Parts	10	5,456.49	1,241.76
709	Laundry Equipment	7	4,956.58	815.16
711	Stoves, Ranges, and Parts	21	12,625.14	2,080.47
715	Furniture, N.O.S.	3	2,336.41	385.51
719	Tools and Parts, N.O.S.	1	1,091.27	180.06
737	Boots, Shoes, and Findings, N.O.S.	1	1,267.08	209.07
749	Liquors, Malt	74	59,525.00	9,821.90
761	Candy and Confectionery	4	5,329.38	879.65
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	6	5,882.74	861.81

3117

EXHIBIT NO. ___
BEFORE THE INTERSTATE COMMERCE COMMISSION

RAILROAD COMPANY AND TERMINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
	Via Council Bluffs, Iowa			
23	Mill Products, N.O.S.	1	$ 712.29	$ 117.53
45	Soybean Oil Cake and Meal	6	4,792.31	550.62
217	Meats, Cooked, Cured, Dried, and Smoked	1	1,095.27	180.72
591	Agricultural Implements, N.O.S.	1	1,972.84	238.71
	TOTAL	9	$ 8,572.71	$ 1,087.58
	Via Eau Claire, Wis.			
763	Food Products, N.O.S., in Cans and Pkgs., Not Frozen	1	$ 954.08	$ 117.34
	Via Edgeley, No. Dakota			
213	Swine, Double-Deck	1	$ 303.85	$ 75.96
591	Agricultural Implements, N.O.S.	1	824.67	162.49
	TOTAL	2	$ 1,128.52	$ 238.45
	Via Fargo, No. Dakota			
227	Eggs	2	$ 1,043.65	$ 210.35
	Via Kansas City, Mo.			
617	Vehicles, Motor, N.O.S.	1	$ 1,007.21	$ 135.43
	Via Lewistown, Mont.			
669	Paperboard, Fibreboard, and Pulpboard	1	$ 219.80	$ 20.29
671	Wallboard	26	7,413.10	606.29
	TOTAL	27	$ 7,632.90	$ 626.58
	Via Mason City, Iowa			
745	Liquors, Alcoholic, N.O.S.	2	$ 2,194.20	$ 362.04
	Via Terry, Mont.			
3	Corn	19	$ 13,653.09	$ 3,471.65
	GRAND TOTAL - ALL INTERCHANGES	434	$386,517.08	$69,068.17

Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON FOREIGN LINES AND TERMINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Racine, Wis.and Marengo, Wash.

ICC No.	Commodity Description	No.of Cars	Freight Charges	CMStP&P Revenue
799	Manufactures and Miscellaneous, N.O.S.	8	$ 13,035.62	$ 7,679.21

Via Charles City, Iowa and Minnesota Transfer, Minn.

617	Vehicles, Motor, N.O.S.	1	$ 976.68	$ 78.79

Via Cheneyville, Ill. and Minnesota Transfer, Minn.

709	Laundry Equipment	17	$ 14,553.20	$ 2,369.31

Via Chicago, Ill. and Minnesota Transfer, Minn.

15	Flour, Wheat	1	$ 1,547.33	$ 222.12
75	Coffee	1	541.83	77.78
299	Animals and Products, N.O.S.	1	801.79	99.22
323	Clay and Bentonite	2	1,642.82	144.06
411	Lumber, Shingles, and Lath	6	4,827.81	639.72
509	Cases, Other Than Petroleum, N.O.S.	3	5,027.71	622.18
527	Chemicals, N.O.S.	1	1,043.28	149.76
547	Paint, Paint Material, Putty, and Varnish	1	1,478.76	176.89
557	Aluminum, N.O.S.	1	1,006.49	138.67
571	Metals and Alloys, N.O.S.	1	1,313.29	153.85
579	Iron and Steel, N.O.S.	8	9,863.20	1,459.03
581	Iron and Steel Nails and Wire (Woven and Not Woven), N.O.S.	5	4,674.08	596.49
583	Manufactured Iron and Steel	53	55,228.16	5,648.99
587	Iron and Steel Pipe and Fittings, N.O.S.	7	9,445.21	1,590.54
589	Tanks, N.O.S.	1	1,462.80	174.99
591	Agricultural Implements, N.O.S.	1	1,048.80	144.50
595	Machinery and Machines, N.O.S.	2	3,712.21	469.81
609	Rails and Railway Track Material, Iron & Steel	1	846.40	101.25
613	Automobiles, Passenger	2	2,109.38	290.15
615	Automobiles, Freight	53	71,194.46	10,210.01
627	Tires and Tubes, Rubber	9	14,432.57	1,643.33
631	Ammunition and Explosives	1	728.07	90.10
639	Brick, N.O.S., and Building Tile	1	1,023.27	140.98
641	Refractories	1	908.79	112.46
649	Sewer Pipe and Drain Tile (Not Metal)	1	1,135.81	140.56
665	Paper and Paper Articles, N.O.S.	4	3,397.77	408.02
673	Building Paper and Prepared Roofing Materials	2	2,572.55	345.84
683	Asbestos Articles, N.O.S.	2	2,481.32	296.83
685	Electrical Equipment and Parts, N.O.S.	15	19,151.90	2,320.36
689	Bathroom and Lavatory Fixtures and Sinks	1	712.18	98.12
691	Hardware, N.O.S.	1	1,343.59	166.27

3119

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON FOREIGN LINES AND TERMINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Ladd, Ill. and Minnesota Transfer, Minn.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
561	Copper, Brass, and Bronze, N.O.S.	1	$ 1,466.87	$ 154.29
611	Vehicles, Other Than Motor	2	1,026.48	247.74
615	Automobiles, Freight	3	3,188.21	414.36
617	Vehicles, Motor, N.O.S.	2	3,260.25	381.80
695	Glassware, N.O.S.	3	2,317.29	271.38
707	Refrigerators, Freezing Apparatus, and Parts	1	598.35	73.01
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	2	2,855.81	326.25
773	Feed, Animal and Poultry, N.O.S.	8	6,279.08	887.65
779	Containers, Metal	1	666.89	81.37
793	Furnace Slag	1	777.08	104.16
	TOTAL	24	$ 23,336.31	$ 2,942.01

Via Milwaukee, Wis. and Minnesota Transfer, Minn.

527	Chemicals, N.O.S.	16	$ 41,770.46	$ 7,810.67
531	Acids, N.O.S.	3	4,655.71	668.33
583	Manufactured Iron and Steel	2	2,227.12	290.84
589	Tanks, N.O.S.	1	1,955.49	269.42
595	Machinery and Machines, N.O.S.	1	2,090.15	250.03
613	Automobiles, Passenger	1	1,168.05	167.67
623	Vehicle Parts, N.O.S.	2	2,813.67	383.91
639	Brick, N.O.S., and Building Tile	2	1,898.25	255.82
653	Woodpulp	1	1,393.94	200.10
707	Refrigerators, Freezing Apparatus, and Parts	1	676.87	97.16
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	2	2,288.49	272.25
	TOTAL	32	$ 62,938.20	$10,666.20

Via Omaha, Nebr. and Minnesota Transfer, Minn.

411	Lumber, Shingles, and Lath	1	$ 538.58	$ 47.50
505	Lubricating Oils and Greases	1	1,059.31	90.89
	TOTAL	2	$ 1,597.89	$ 138.39

Via Racine, Wis. and Minnesota Transfer, Minn.

[fol. 4216]

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON FOREIGN LINES AND TERMINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Omaha, Nebr. and Spokane, Wash.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
541	Insecticides and Fungicides, N.O.S.	1	$ 2,082.01	$ 1,291.32
	GRAND TOTAL - ALL INTERCHANGES	537	$635,258.55	$91,045.47

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631	Ammunition and Explosives	1	3,222.40	531.70
659	Printing Paper, N.O.S.	1	823.14	577.15
665	Paper and Paper Articles, N.O.S.	2	1,531.37	252.68
667	Printed Matter, N.O.S.	5	5,001.38	825.23
687	Furnaces, Heaters, Radiators, and Parts	3	2,107.74	347.78
705	Household Utensils, N.O.S.	3	2,479.50	409.12
707	Refrigerators, Freezing Apparatus, and Parts	10	5,456.49	1,241.76
709	Laundry Equipment	7	4,956.58	815.16
711	Stoves, Ranges, and Parts	21	12,625.14	2,080.47
715	Furniture, N.O.S.	3	2,336.41	385.51
719	Tools and Parts, N.O.S.	1	1,091.27	180.06
737	Boots, Shoes, and Findings, N.O.S.	1	1,267.08	209.07
749	Liquors, Malt	74	59,525.00	9,821.90
761	Candy and Confectionery	4	5,329.38	879.65
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	6	5,882.74	861.81
767	Starch	1	955.14	210.96
769	Soap and Cleaning and Washing Compounds	1	960.64	154.75
773	Feed, Animal and Poultry, N.O.S.	9	6,968.21	1,101.75
779	Containers, Metal	1	634.80	104.74
783	Containers, Fibreboard and Paperboard, KD	1	1,063.59	175.49
799	Manufactures and Miscellaneous, N.O.S.	3	2,802.97	427.87
	TOTAL	365	$342,139.29	$57,132.13

Via Spokane, Wash.

709	Laundry Equipment	1	$ 740.28	$ 561.09
761	Candy and Confectionery	1	877.46	144.78
763	Food Products, NOS, in Cans & Packages, Not Frozen	1	237.70	59.43
767	Starch	1	727.61	483.69
799	Manufactures and Miscellaneous, N.O.S.	2	5,608.38	4,437.63
4210	TOTAL	6	$ 8,191.43	$ 5,686.62

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY AND TERMINATING AT STATIONS ON THE OREGON TRUNK RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

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ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
	Via Minnesota Transfer, Minn.			
591	Agricultural Implements, N.O.S.	1	$ 975.70	$ 107.33
749	Liquors, Malt	5	4,192.88	691.83
	T O T A L	6	$5,168.58	$ 799.16
	Via Spokane, Wash.			
201	Horses, Mules, Ponies, and Asses	2	$ 675.96	$ 374.43
	GRAND TOTAL - ALL INTERCHANGES	8	$5,844.54	$1,173.59

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CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON FOREIGN LINES AND TERMINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Chicago, Ill. and Minnesota Transfer, Minn.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
595	Machinery and Machines, N.O.S.	1	$ 1,483.53	$ 204.39
715	Furniture, N.O.S.	1	778.23	93.10
	TOTAL	2	$ 2,261.76	$ 297.49

Via Franklin Park, Ill. and Minnesota Transfer, Minn.

591	Agricultural Implements, N.O.S.	2	$ 2,482.17	$ 323.74
613	Automobiles, Passenger	2	2,263.98	325.00
	TOTAL	4	$ 4,746.15	$ 648.74

Via Rondout, Ill. and Minnesota Transfer, Minn.

613	Automobiles, Passenger	1	$ 1,358.52	$ 183.36
707	Refrigerators, Freezing Apparatus, and Parts	1	582.34	72.06
	TOTAL	2	$ 1,940.86	$ 255.42

Via Joliet, Ill. and Minnesota Transfer, Minn.

581	Iron and Steel Nails and Wire (Woven and Not Woven), N.O.S.	1	$ 1,491.92	$ 192.89

Via Kansas City, Mo. and Minnesota Transfer, Minn.

411	Lumber, Shingles, and Lath	1	$ 665.64	$ 58.38

Via Ladd, Ill. and Minnesota Transfer, Minn.

539	Fertilizers, N.O.S.	1	$ 832.84	$ 97.53

Via Webster, Ill. and Minnesota Transfer, Minn.

595	Machinery and Machines, N.O.S.	1	$ 1,324.58	$ 155.12

Via Seymour, Ind. and Chicago, Ill.

715	Furniture, N.O.S.	1	$ 720.36	$ 31.34

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON TRUNK RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMSTP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Minnesota Transfer, Minn. and Racine, Wis.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
411	Lumber, Shingles, and Lath	20	$ 16,467.04	$ 1,564.69

Via Minnesota Transfer, Minn. and Rondout, Ill.

323	Clay and Pentonite	3	$ 1,784.01	$ 160.83
411	Lumber, Shingles, and Lath	5	3,889.70	455.18
	TOTAL	8	$ 5,673.71	$ 616.01

Via Minnesota Transfer, Minn. and Seymour, Ind.

411	Lumber, Shingles, and Lath	2	$ 1,428.29	$ 264.60

Via Minnesota Transfer, Minn. and Spaulding, Ill.

411	Lumber, Shingles, and Lath	1	$ 732.98	$ 88.65

Via Minnesota Transfer, Minn. and Superior, Wis.

411	Lumber, Shingles, and Lath	1	$ 702.84	$ 29.14

Via Minnesota Transfer, Minn. and Terre Haute, Ind.

411	Lumber, Shingles, and Lath	16	$ 12,017.88	$ 1,994.51
639	Brick, N.O.S., and Building Tile	1	1,275.32	152.56
	TOTAL	17	$ 13,293.20	$ 2,147.07

Via Minnesota Transfer, Minn. and Webster, Ill.

411	Lumber, Shingles, and Lath	1	$ 781.56	$ 137.89

Via Minnesota Transfer, Minn. and Winona, Minn.

323	Clay and Bentonite	1	$ 576.23	$ 20.20
411	Lumber, Shingles, and Lath	23	17,829.47	921.98
	TOTAL	24	$ 18,405.70	$ 942.18

Via Superior, Wis. and Winona, Minn.

411	Lumber, Shingles, and Lath	1	$ 628.67	$ 31.01

581	Iron and Steel Nails and Wire (Woven and Not Woven), N.O.S.	5	4,674.08	596.49
583	Manufactured Iron and Steel	53	55,228.16	5,648.99
587	Iron and Steel Pipe and Fittings, N.O.S.	7	9,445.21	1,590.54
589	Tanks, N.O.S.	1	1,462.80	174.99
591	Agricultural Implements, N.O.S.	1	1,048.80	144.50
595	Machinery and Machines, N.O.S.	2	3,712.21	469.81
609	Rails and Railway Track Material, Iron & Steel	1	846.40	101.25
613	Automobiles, Passenger	2	2,109.38	290.15
615	Automobiles, Freight	53	71,194.46	10,210.01
627	Tires and Tubes, Rubber	9	14,432.57	1,643.33
631	Ammunition and Explosives	1	728.07	90.10
639	Brick, N.O.S., and Building Tile	1	1,023.27	140.98
641	Refractories	1	908.79	112.46
649	Sewer Pipe and Drain Tile (Not Metal)	1	1,135.81	140.56
665	Paper and Paper Articles, N.O.S.	4	3,397.77	408.02
673	Building Paper and Prepared Roofing Materials	2	2,572.55	345.84
683	Asbestos Articles, N.O.S.	2	2,481.32	296.83
685	Electrical Equipment and Parts, N.O.S.	15	19,151.90	2,320.36
689	Bathroom and Lavatory Fixtures and Sinks	1	712.18	98.12
691	Hardware, N.O.S.	1	1,343.59	166.27
695	Glassware, N.O.S.	16	13,838.06	1,730.59
701	Chinaware, Crockery, and Earthenware	14	16,281.35	2,122.85
705	Household Utensils, N.O.S.	1	904.25	110.30
707	Refrigerators, Freezing Apparatus, and Parts	1	679.39	97.52
709	Laundry Equipment	1	910.52	107.50
711	Stoves, Ranges, and Parts	1	702.84	96.83
713	Floor Covering	1	833.83	99.75
715	Furniture, N.O.S.	2	1,709.46	174.48
717	Furniture Parts	1	1,492.12	178.49
743	Games and Toys	2	1,771.55	235.08
745	Liquors, Alcoholic, N.O.S.	2	3,739.30	451.45

Via Omaha, Nebr. and Minnesota Transfer, Minn.

411	Lumber, Shingles, and Lath	1	$ 538.58	$ 47.50
505	Lubricating Oils and Greases	1	1,059.31	90.89
	TOTAL	2	$ 1,597.89	$ 138.39

Via Racine, Wis. and Minnesota Transfer, Minn.

557	Aluminum, N.O.S.	1	$ 1,700.39	$ 157.82
583	Manufactured Iron and Steel	15	15,398.93	1,591.20
587	Iron and Steel Pipe and Fittings, N.O.S.	7	8,071.63	834.07
595	Machinery and Machines, N.O.S.	1	1,576.90	146.35
597	Machinery Parts	2	2,125.40	219.60
673	Building Paper and Prepared Roofing Materials	1	1,023.96	99.26
685	Electrical Equipment and Parts, N.O.S.	1	1,633.00	146.51
707	Refrigerators, Freezing Apparatus, and Parts	12	7,117.75	784.88
709	Laundry Equipment	1	890.63	78.75
799	Manufactures and Miscellaneous, N.O.S.	2	2,870.40	296.60
	TOTAL	43	$ 42,408.99	$ 4,355.04

Via Rondout, Ill. and Minnesota Transfer, Minn.

75	Coffee	1	$ 502.18	$ 60.43
505	Lubricating Oils and Greases	1	1,311.62	168.06
583	Manufactured Iron and Steel	25	28,604.68	4,349.94
587	Iron and Steel Pipe and Fittings, N.O.S.	3	3,852.81	489.66

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Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

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Via Minnesota Transfer, Minn. and Webster, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
411	Lumber, Shingles, and Lath	7	$ 5,934.62	$ 1,062.29
415	Veneer, Plywood, and Built-Up Wood	1	1,153.06	150.75
499	Products of Forests, N.O.S.	2	1,181.30	214.21
	TOTAL	10	$ 8,268.98	$ 1,427.25

Via Minnesota Transfer, Minn. and West Dana, Ind.

415	Veneer, Plywood, and Built-Up Wood	1	$ 1,052.06	$ 198.51
671	Wallboard	1	863.78	159.51
	TOTAL	2	$ 1,915.84	$ 358.02

Via Minnesota Transfer, Minn. and Winona, Minn.

73	Fruits and Berries, Fresh, Frozen	1	$ 1,025.12	$ 35.21
411	Lumber, Shingles, and Lath	15	12,809.12	638.33
415	Veneer, Plywood, and Built-Up Wood	1	691.90	32.45
535	Alcohol, N.O.S.	1	1,330.72	62.40
555	Aluminum: Bar, Ingot, Pig and Slab	19	22,918.41	1,333.57
675	Insulating Materials, N.O.S.	1	189.78	38.68
	TOTAL	38	$ 38,965.05	$ 2,140.64

Via Spokane, Wash. and Chicago, Ill.

411	Lumber, Shingles, and Lath	1	$ 685.10	$ 495.59
557	Aluminum, N.O.S.	1	1,109.31	675.63
	TOTAL	2	$ 1,794.41	$ 1,171.22

Via Spokane, Wash. and Omaha, Nebr.

555	Aluminum: Bar, Ingot, Pig, and Slab	1	$ 790.24	$ 521.56
~~555~~	~~Aluminum: Bar, Ingot, Pig, and Slab~~	1	$ 790.24	$ 521.56
	GRAND TOTAL - ALL INTERCHANGES	~~757~~ 758	$715,721.40	$95,601.74
		758	~~$715,721.40~~	~~$95,601.74~~
		~~757~~	~~$14,931.16~~	~~$5,080.78~~

Via Winona, Minn. and Minnesota Transfer, Minn.

583	Manufactured Iron and Steel	19	$ 17,868.72	$ 1,039.82
587	Iron and Steel Pipe and Fittings, N.O.S.	12	19,331.45	912.18
595	Machinery and Machines, N.O.S.	1	1,056.12	44.22
695	Glassware, N.O.S.	1	847.84	36.72
779	Containers, Metal	1	1,387.81	65.72
783	Containers, Fibreboard and Paperboard, KD	1	654.33	37.79
799	Manufactures and Miscellaneous, N.O.S.	1	720.50	34.74
	TOTAL	36	$ 41,866.77	$ 2,171.19

Via Cedar Rapids, Iowa and Sioux City, Iowa

617	Vehicles, Motor, N.O.S.	2	$ 1,524.05	$ 122.94

Via Chicago, Ill. and Spokane, Wash.

527	Chemicals, N.O.S.	1	$ 1,149.89	$ 663.43

Via Franklin Park, Ill. and Spokane, Wash.

769	Soap and Cleaning and Washing Compounds	1	$ 688.71	$ 665.03

Via Milwaukee, Wis. and Spokane, Wash.

527	Chemicals, N.O.S.	1	$ 2,101.85	$ 1,241.65

Via Minnesota Transfer, Minn. and Spokane, Wash.

715	Furniture, N.O.S.	1	$ 1,004.64	$ 620.09
761	Candy and Confectionery	1	1,240.20	764.18
	TOTAL	2	$ 2,244.84	$ 1,384.27

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON FOREIGN LINES AND TERMINATING AT STATIONS ON THE OREGON TRUNK RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Chicago, Ill. and Minnesota Transfer, Minn.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
799	Manufactures and Miscellaneous, N.O.S.	3	$4,056.87	$ 558.94

Via Franklin Park, Ill. and Minnesota Transfer, Minn.

950	Forwarder Traffic	1	$1,602.00	$ 220.72

Via Regina, Wis. and Minnesota Transfer, Minn.

685	Electrical Equipment and Parts, N.O.S.	1	$2,249.46	$ 201.82

Via Ringling, Mont. and Spokane, Wash.

201	Horses, Mules, Ponies, and Asses	4	$1,471.52	$ 683.69
	GRAND TOTAL - ALL INTERCHANGES	9	$9,379.85	$1,665.17

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CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY AND TERMINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
	Via Council Bluffs, Iowa			
595	Crane	1	$ 3,714.76	$ 739.65
	Via Minnesota Transfer, Minn.			
687	Furnaces, Heaters, Radiators, and Parts	1	$ 682.42	$ 112.60
715	Furniture, N.O.S.	1	617.94	101.96
749	Liquors, Malt	41	34,276.78	5,627.12
	TOTAL	43	$35,577.14	$5,841.68
	Via Stillwater, Minn.			
677	Building Woodwork and Millwork	1	$ 564.74	$ 107.96
	Via Terry, Mont.			
3	Corn	1	$ 711.97	$ 227.83
	GRAND TOTAL - ALL INTERCHANGES	46	$40,568.61	$6,917.12

[Fol. 4219]

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CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY AND TERMINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

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Via Minnesota Transfer, Minn.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
9	Barley and Rye	83	$ 50,830.68	$ 15,997.15
65	Pears, Fresh, Not Frozen	2	1,602.11	246.91
73	Fruits and Berries, Fresh, Frozen	2	2,497.33	371.62
89	Vegetables, Fresh, N.C.S., Not Frozen	1	1,206.62	178.87
217	Meats, Cooked, Cured, Dried, and Smoked	1	1,413.65	233.35
219	Packing House Products, Edible, N.C.S.	1	1,268.56	209.31
225	Poultry, Dressed and Frozen	3	2,556.91	699.82
237	Wool and Mohair, N.C.S.	1	644.21	106.29
245	Fish and Sea Animal Oil	1	955.87	156.44
403	Posts, Poles, and Piling, Wooden	13	5,646.37	2,238.59
409	Pulpwood	5	4,627.20	763.41
411	Lumber, Shingles, and Lath	393	312,489.86	49,908.14
413	Box, Crate, and Cooperage Materials	4	2,094.84	326.18
415	Veneer, Plywood, and Built-Up Wood	49	39,513.79	6,800.92
499	Products of Forests, N.C.S.	12	7,423.29	1,154.04
527	Chemicals, N.C.S.	1	1,337.36	220.66
533	Sodium (Soda) Products	1	1,322.50	218.21
539	Fertilizers, N.C.S.	1	1,404.10	217.02
555	Aluminum: Bar, Ingot, Pig, and Slab	49	44,694.84	6,171.87
557	Aluminum, N.O.S.	6	7,131.82	1,178.98
583	Manufactured Iron and Steel	24	30,925.63	5,067.85
659	Printing Paper, N.C.S.	4	2,529.42	483.42
661	Wrapping Paper	1	772.80	127.51
669	Paperboard, Fibreboard, and Pulpboard	9	7,998.31	1,319.72
671	Wallboard	10	6,785.54	961.36
685	Electrical Equipment and Parts, N.C.S.	4	5,618.48	927.04
701	Chinaware, Crockery, and Earthenware	1	1,140.00	188.10
703	Woodenware	2	767.87	186.64
763	Food Products, N.C.S., in Cans and Packages, Not Frozen	4	4,719.96	738.66
765	Food Products, N.C.S., Frozen	2	2,020.89	294.48
773	Feed, Animal and Poultry, N.C.S.	6	5,421.44	806.60
787	Containers, Returned Empty	56	23,120.26	3,813.91
799	Manufactures and Miscellaneous, N.C.S.	2	1,404.34	831.73
	T O T A L	759	$585,586.85	$103,144.70

ol. 4222

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY AND TERMINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMSTP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMSTP&P Revenue
	Via Edgely, No. Dakota			
403	Posts, Poles, and Piling, Wooden	7	$ 2,345.71	$ 874.47
681	Buildings and Houses, Fabricated and Portable, N.O.S.	1	575.12	74.77
773	Feed, Animal and Poultry, N.O.S.	1	1,067.34	37.05
	T O T A L	9	$ 3,988.17	$ 986.29
	Via Linton, No. Dakota			
773	Feed, Animal and Poultry, N.O.S.	1	$ 690.58	$ 43.85
	Via Fargo, No. Dakota			
663	Paper Bags	1	$ 1,102.71	$ 108.40
	Via Council Bluffs, Iowa			
583	Manufactured Iron and Steel	1	$ 1,513.52	$ 249.73
	Via Aberdeen, So. Dakota			
557	Aluminum, N.O.S.	1	$ 716.70	$ 179.18
	Via Terre Haute, Indiana			
499	Products of Forests, N.O.S.	1	$ 543.12	$ 14.12
	Via Marengo, Washington			
411	Lumber, Shingles, and Lath	1	$ 389.54	$ 205.88
	Via Winona, Minnesota			
411	Lumber, Shingles, and Lath	1	$ 791.37	$ 140.42
	Via Janesville, Wisconsin			
411	Lumber, Shingles, and Lath	1	$ 698.90	$ 83.04
	Via Newell, Illinois			
243	Sea Food, N.O.S.	1	$ 1,087.32	$ 66.92
	GRAND TOTAL - ALL INTERCHANGES	1210	$720,646.41	$176,592.22

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CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

[fol. 4228]

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON TRUNK RAILWAY AND TERMINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Minneapolis Transfer, Minn.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
9	Barley and Rye	4	$ 4,774.90	$ 787.85
107	Seeds, N.O.S.	1	1,095.29	174.22
323	Clay and Bentonite	5	2,447.87	403.90
411	Lumber, Shingles, and Lath	1,142	708,311.61	101,263.72
527	Chemicals, N.O.S.	1	520.66	85.91
613	Automobiles, Passenger	1	979.80	161.67
677	Building Woodwork and Millwork	10	7,156.88	1,240.20
787	Containers, Returned Empty	4	1,460.85	241.04
	TOTAL	1,168	$726,747.86	$104,358.51

Via Spokane, Wash.

411	Lumber, Shingles, and Lath	5	$ 3,026.21	$ 1,980.64

Via Green Bay, Wis.

323	Clay and Bentonite	10	$ 5,072.11	$ 243.80

GRAND TOTAL - ALL INTERCHANGES	1,183	$734,846.18	$106,582.95

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CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

[fol. 4228]

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON TRUNK RAILWAY AND TERMINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Minneapolis Transfer, Minn.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
9	Barley and Rye	4	$ 4,774.90	$ 787.85
107	Seeds, N.O.S.	1	1,095.29	174.22
323	Clay and Bentonite	5	2,447.87	403.90
411	Lumber, Shingles, and Lath	1,142	708,311.61	101,263.72
527	Chemicals, N.O.S.	1	520.66	85.91
613	Automobiles, Passenger	1	979.80	161.67
677	Building Woodwork and Millwork	10	7,156.88	1,240.20
787	Containers, Returned Empty	4	1,460.85	241.04
	TOTAL	1,168	$726,747.86	$104,358.51

Via Spokane, Wash.

411	Lumber, Shingles, and Lath	5	$ 3,026.21	$ 1,980.64

Via Green Bay, Wis.

323	Clay and Bentonite	10	$ 5,072.11	$ 243.80

GRAND TOTAL - ALL INTERCHANGES	1,183	$734,846.18	$106,582.95

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STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY AND TERMINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
	Via Aberdeen, South Dakota			
411	Lumber, Shingles, and Lath	1	$ 639.56	$ 134.31
	Via Appleton, Wisconsin			
411	Lumber, Shingles, and Lath	1	$ 975.95	$ 246.22
	Via St. Maries, Idaho			
411	Lumber, Shingles, and Lath	1	$ 1,065.90	$ 518.11
	Via Joliet, Illinois			
411	Lumber, Shingles, and Lath	1	$ 1,128.75	$ 186.24
	Via Spaulding, Illinois			
411	Lumber, Shingles, and Lath	1	$ 850.77	$ 23.11
	Via Chicago, Illinois			
411	Lumber, Shingles, and Lath	2	$ 1,962.48	$ 150.80
	Via Linton, North Dakota			
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	$ 1,256.43	$ 235.58
	Via Milwaukee, Wisconsin			
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	$ 1,103.22	$ 54.61
	GRAND TOTAL - ALL INTERCHANGES	926	$844,813.27	$155,739.20

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStPaP REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

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Via Champion, Mich. and Chicago, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStPaP Revenue
411	Lumber, Shingles, and Lath	4	$ 3,341.[illegible]	$ 301.90

Via Council Bluffs, Ia. and Franklin Park, Ill.

85	Potatoes, Other Than Sweet	3	$ 2,088.45	$ 223.52

Via Council Bluffs, Ia. and Omaha, Nebr.

411	Lumber, Shingles, and Lath	1	$ 698.32	$ 15.37

Via Green Bay, Wis. and Chicago, Ill.

411	Lumber, Shingles, and Lath	8	$ 6,525.62	$ 214.01
415	Veneer, Plywood, and Built-Up Wood	1	1,242.88	11.63
555	Aluminum: Bar, Ingot, Pig, and Slab	1	1,517.69	15.16
	TOTAL	10	$ 9,286.19	$ 240.80

Via Green Bay, Wis. and Franklin Park, Ill.

239	Hides, Skins, and Pelts, N.O.S.	1	$ 1,230.87	$ 56.36
411	Lumber, Shingles, and Lath	1	955.58	40.75
	TOTAL	2	$ 2,186.45	$ 97.11

Via Minnesota Transfer, Minn. and Bedford, Ind.

415	Veneer, Plywood, and Built-Up Wood	1	$ 893.08	$ 173.10

Via Minnesota Transfer, Minn. and Charles City, Ia.

411	Lumber, Shingles, and Lath	1	$ 661.48	$ 53.36
773	Feed, Animal and Poultry, N.O.S.	1	1,166.42	87.51
	TOTAL	2	$ 1,827.90	$ 140.87

Via Minnesota Transfer, Minn. and Cheneyville, Ill.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStPaP REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Minnesota Transfer, Minn. and Chicago, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStPaP Revenue
65	Pears, Fresh, Not Frozen	3	$ 2,321.07	$ 252.89
199	Products of Agriculture, N.O.S.	1	1,418.11	203.50
235	Wool and Mohair in Grease	5	4,668.26	558.44
399	Products of Mines, N.O.S.	7	9,146.59	1,842.57
411	Lumber, Shingles, and Lath	102	86,443.97	13,940.64
415	Veneer, Plywood, and Built-Up Wood	45	43,357.83	5,673.53
499	Products of Forests, N.O.S.	3	2,069.63	286.66
527	Chemicals, N.C.S.	3	6,437.47	683.19
555	Aluminum: Bar, Ingot, Pig, and Slab	2	2,213.14	306.74
559	Copper: Ingot, Matte, and Pig	1	732.60	98.15
581	Iron and Steel Nails and Wire (Woven and Not Woven), N.O.S.	2	1,695.05	209.85
583	Manufactured Iron and Steel	1	932.89	113.21
653	Woodpulp	21	19,788.34	2,588.66
659	Printing Paper, N.O.S.	6	4,059.27	459.26
669	Paperboard, Fibreboard, and Pulpboard	11	7,920.29	1,070.17
671	Wallboard	1	830.30	106.86
673	Building Paper and Prepared Roofing Materials	1	1,447.93	207.85
675	Insulating Materials, N.C.S.	5	3,932.33	556.61
703	Woodenware	4	2,935.19	440.97
763	Food Products, N.C.S., in Cans and Packages, Not Frozen	12	15,648.84	1,803.30
789	Scrap Iron and Scrap Steel	1	1,388.52	152.81
799	Manufactures and Miscellaneous, N.C.S.	4	3,175.77	407.39
	T O T A L	241	$222,563.39	$31,963.25

Via Minnesota Transfer, Minn. and Chicago Heights, Ill.

669	Paperboard, Fibreboard, and Pulpboard	1	$ 881.79	$ 120.47

Via Minnesota Transfer, Minn. and Council Bluffs, Ia.

415	Veneer, Plywood, and Built-Up Wood	1	$ 1,049.75	$ 109.97

Via Minnesota Transfer, Minn. and Delmar, Ill.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

[fol. 4225]

Via Minnesota Transfer, Minn. and Franklin Park, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
65	Pears, Fresh, Not Frozen	1	$ 873.75	$ 81.82
73	Fruits and Berries, Fresh, Frozen	7	8,880.17	957.66
199	Products of Agriculture, N.O.S.	3	3,014.17	223.09
243	Sea Food, N.O.S.	3	4,330.23	471.67
399	Products of Mines, N.O.S.	5	6,294.68	714.76
411	Lumber, Shingles, and Lath	16	13,317.41	1,636.48
415	Veneer, Plywood, and Built-Up Wood	8	8,070.70	1,114.61
527	Chemicals, N.C.S.	6	11,784.07	1,904.99
669	Paperboard, Fibreboard, and Pulpboard	15	10,542.91	1,273.15
763	Food Products, N.C.S., in Cans and Packages, Not Frozen	13	17,989.25	4,601.40
	TOTAL	77	$ 85,197.34	$12,979.63

Via Minnesota Transfer, Minn. and Granger, Ia

673	Building Paper and Prepared Roofing Materials	1	$ 567.58	$ 62.43

Via Minnesota Transfer, Minn. and Joliet, Ill.

411	Lumber, Shingles, and Lath	1	$ 769.60	$ 88.28

Via Minnesota Transfer, Minn. and Kansas City, Mo.

411	Lumber, Shingles, and Lath	8	$ 6,345.96	$ 691.85
415	Veneer, Plywood, and Built-Up Wood	6	4,605.23	541.70
555	Aluminum: bar, Ingot, Pig, and Slab	1	974.32	115.14
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,181.40	153.24
	TOTAL	16	$ 13,106.91	$ 1,501.93

Via Minnesota Transfer, Minn. and Linton, Ind.

411	Lumber, Shingles, and Lath	1	$ 821.80	$ 87.57

Via Minnesota Transfer, Minn. and Mason City, Ia.

411	Lumber, Shingles, and Lath	1	$ 769.59	$ 69.84

Via Minnesota Transfer, Minn. and Menominee, Mich.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE SPOKANE, PORTLAND AND SEATTLE RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Minnesota Transfer, Minn. and Newell, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
415	Veneer, Plywood, and Built-Up Wood	8	$ 8,746.71	$ 1,165.90

Via Minnesota Transfer, Minn. and Racine, Wis.

411	Lumber, Shingles, and Lath	154	$140,904.13	$12,614.24
415	Veneer, Plywood, and Built-Up Wood	3	3,178.14	289.50
653	Woodpulp	1	891.39	98.50
	TOTAL	158	$144,973.66	$13,002.24

Via Minnesota Transfer, Minn. and Rockwell City, Ia.

411	Lumber, Shingles, and Lath	1	$ 600.05	$ 54.46

Via Minnesota Transfer, Minn. and Rondout, Ill.

411	Lumber, Shingles, and Lath	15	$ 11,020.69	$ 1,226.34
415	Veneer, Plywood, and Built-Up Wood	1	479.70	51.60
555	Aluminum: Bar, Ingot, Pig, and Slab	1	1,119.52	114.69
	TOTAL	17	$ 12,619.91	$ 1,392.63

Via Minnesota Transfer, Minn. and Seymour, Ind.

399	Products of Mines, N.O.S.	1	$ 1,275.59	$ 228.11
411	Lumber, Shingles, and Lath	2	1,356.85	301.48
415	Veneer, Plywood, and Built-Up Wood	1	935.25	159.63
	TOTAL	4	$ 3,567.69	$ 689.22

Via Minnesota Transfer, Minn. and Spaulding, Ill.

411	Lumber, Shingles, and Lath	1	$ 676.26	$ 64.00

Via Minnesota Transfer, Minn. and Superior, Wis.

411	Lumber, Shingles, and Lath	1	$ 873.86	$ 42.91

Via Minnesota Transfer, Minn. and Terre Haute, Ind.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON TRUNK RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

3136 [fol. 4229]

Via Green Bay, Wis. and Chicago, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
323	Clay and Bentonite	1	$ 614.10	$ 21.33
411	Lumber, Shingles, and Lath	21	16,020.44	809.77
	TOTAL	22	$ 16,634.54	$ 831.10

Via Minnesota Transfer, Minn. and Chicago, Ill.

323	Clay and Bentonite	2	$ 1,203.84	$ 169.89
411	Lumber, Shingles, and Lath	51	39,042.06	5,390.52
415	Veneer, Plywood, and Built-Up Wood	2	1,796.63	232.56
639	Brick, N.O.S., and Building Tile	3	3,353.84	1,060.96
677	Building Woodwork and Millwork	2	1,656.82	235.98
713	Floor Covering	1	1,269.60	151.88
	TOTAL	61	$ 48,322.79	$ 7,241.79

Via Minnesota Transfer, Minn. and Chemerville, Ill.

323	Clay and Bentonite	1	$ 620.85	$ 113.73
411	Lumber, Shingles, and Lath	7	4,927.47	808.78
	TOTAL	8	$ 5,548.32	$ 922.51

Via Minnesota Transfer, Minn. and Chicago Heights, Ill.

411	Lumber, Shingles, and Lath	1	$ 835.12	$ 111.89

Via Minnesota Transfer, Minn. and Delmar, Ill.

411	Lumber, Shingles, and Lath	6	$ 4,649.20	$ 837.33

Via Minnesota Transfer, Minn. and Elgin, Ill.

411	Lumber, Shingles, and Lath	2	$ 1,445.08	$ 138.32

Via Minnesota Transfer, Minn. and Franklin Park, Ill.

411	Lumber, Shingles, and Lath	10	$ 7,261.62	$ 955.49

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY AND TERMINATING AT STATIONS ON THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMSTP&P REVENUE AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

3138 [fol. 4231]

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMSTP&P Revenue
	Via Minnesota Transfer, Minn.			
9	Barley and Rye	67	$ 79,095.68	$ 11,647.75
23	Mill Products, N.O.S.	1	1,107.14	182.68
69	Fruits, Fresh, N.O.S., Not Frozen	2	2,450.58	236.71
73	Fruits and Berries, Fresh, Frozen	3	3,735.53	576.00
89	Vegetables, Fresh, N.O.S., Not Frozen	1	914.92	88.52
199	Products of Agriculture, N.O.S.	46	51,038.44	8,437.55
225	Poultry, Dressed and Frozen	2	2,294.93	495.54
403	Posts, Poles, and Piling, Wooden	1	931.81	153.75
409	Pulpwood	7	6,839.93	1,128.58
411	Lumber, Shingles, and Lath	418	356,946.76	57,509.38
415	Veneer, Plywood, and Built-Up Wood	211	186,282.55	30,216.96
653	Woodpulp	4	3,429.36	565.54
655	Scrap Paper and Rags	1	745.78	123.05
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	56	70,017.42	10,593.91
787	Containers, Returned Empty	17	6,729.83	1,089.94
	T O T A L	837	$772,560.66	$123,046.16
	Via Spokane, Wash.			
411	Lumber, Shingles, and Lath	51	$ 38,794.79	$ 25,076.13
415	Veneer, Plywood, and Built-Up Wood	6	5,113.40	3,127.29
	T O T A L	57	$ 43,908.19	$ 28,203.42
	Via Council Bluffs, Iowa			
411	Lumber, Shingles, and Lath	13	$ 10,405.12	$ 1,697.15
415	Veneer, Plywood, and Built-Up Wood	1	880.11	145.22
	T O T A L	14	$ 11,285.23	$ 1,842.37
	Via Omaha, Nebraska			
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	$ 952.77	$ 115.27
	Via Edgely, North Dakota			

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

3140 [fol. 4233]

Via Champion, Mich. and Chicago, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
411	Lumber, Shingles, and Lath	2	$ 1,947.40	$ 155.53

Via Chicago, Ill. and Cheneyville, Ill.

763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	$ 1,249.78	$ 51.53

Via Council Bluffs, Iowa and Chicago, Ill.

411	Lumber, Shingles, and Lath	1	$ 955.63	$ 103.93
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,023.28	148.58
	TOTAL	2	$ 1,978.91	$ 252.51

Via Council Bluffs, Iowa and Des Moines, Iowa

763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	$ 1,082.63	$ 81.22

Via Council Bluffs, Iowa and Elgin, Ill.

411	Lumber, Shingles, and Lath	1	$ 890.50	$ 79.13

Via Council Bluffs, Iowa and Franklin Park, Ill.

199	Products of Agriculture, N.O.S.	2	$ 1,520.60	$ 142.65

Via Council Bluffs, Iowa and Milwaukee, Wis.

411	Lumber, Shingles, and Lath	1	$ 872.00	$ 138.31

Via Green Bay, Wis. and Chicago, Ill.

Via Green Bay, Wis. and Chicago, Ill.

411	Lumber, Shingles, and Lath	8	$ 6,525.62	$ 214.01
415	Veneer, Plywood, and Built-Up Wood	1	1,242.88	11.63
555	Aluminum: Bar, Ingot, Pig, and Slab	1	1,517.69	15.16
	TOTAL	10	$ 9,286.19	$ 240.80

Via Green Bay, Wis. and Franklin Park, Ill.

239	Hides, Skins, and Pelts, N.O.S.	1	$ 1,230.87	$ 56.36
411	Lumber, Shingles, and Lath	1	955.58	40.75
	TOTAL	2	$ 2,186.45	$ 97.11

Via Minnesota Transfer, Minn. and Bedford, Ind.

415	Veneer, Plywood, and Built-Up Wood	1	$ 893.08	$ 173.10

Via Minnesota Transfer, Minn. and Charles City, Ia.

411	Lumber, Shingles, and Lath	1	$ 661.48	$ 53.36
773	Feed, Animal and Poultry, N.O.S.	1	1,166.42	87.51
	TOTAL	2	$ 1,827.90	$ 140.87

Via Minnesota Transfer, Minn. and Cheneyville, Ill.

411	Lumber, Shingles, and Lath	8	$ 7,351.08	$ 1,224.04
415	Veneer, Plywood, and Built-Up Wood	5	4,590.47	1,092.00
659	Printing Paper, N.O.S.	2	1,919.20	324.30
669	Paperboard, Fibreboard, and Pulpboard	1	706.80	120.05
671	Wallboard	1	686.57	116.17
691	Hardware, N.O.S.	1	624.43	105.60
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	3	4,690.29	781.40
	TOTAL	21	$ 20,568.84	$ 3,763.56

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Kansas City, Mo. and Elgin, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
411	Lumber, Shingles, and Lath	2	$ 2,141.10	$ 206.07

Via Minnesota Transfer, Minn. and Bedford, Ind.

199	Products of Agriculture, N.O.S.	1	$ 1,033.07	$ 227.14
411	Lumber, Shingles, and Lath	4	3,498.54	923.97
	TOTAL	5	$ 4,531.61	$ 1,151.11

Via Minnesota Transfer, Minn. and Cedar Rapids, Iowa

411	Lumber, Shingles, and Lath	1	$ 673.19	$ 54.30

Via Minnesota Transfer, Minn. and Cheneyville, Ill.

107	Seeds, N.O.S.	1	$ 1,183.53	$ 201.45
199	Products of Agriculture, N.O.S.	1	1,243.13	210.43
411	Lumber, Shingles, and Lath	8	6,926.90	1,082.07
415	Veneer, Plywood, and Built-Up Wood	7	7,012.90	1,122.74
	TOTAL	17	$ 16,366.46	$ 2,616.69

Via Minnesota Transfer, Minn. and Chicago, Ill.

73	Fruits and Berries, Fresh, Frozen	4	$ 5,678.25	$ 568.95
107	Seeds, N.O.S.	2	2,373.04	288.57
199	Products of Agriculture, N.O.S.	5	4,778.74	683.45
411	Lumber, Shingles, and Lath	182	166,380.19	20,829.43
415	Veneer, Plywood, and Built-Up Wood	296	308,716.57	38,785.40
583	Manufactured Iron and Steel	1	1,280.15	149.18
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	3	4,039.57	452.95
765	Food Products, N.O.S., Frozen	1	1,025.45	105.36
	TOTAL	494	$494,271.96	$61,863.29

Via Minnesota Transfer, Minn. and Chicago Heights, Ill.

411	Lumber, Shingles, and Lath	3	$ 2,913.08	$ 506.81
415	Veneer, Plywood, and Built-Up Wood	2	2,483.53	332.74
	TOTAL	5	$ 5,396.61	$ 839.55

Via Minnesota Transfer, Minn. and Delmar, Ill.

Via Minnesota Transfer, Minn. and Chicago Heights, Ill.

669	Paperboard, Fibreboard, and Pulpboard	1	$ 881.79	$ 120.47

Via Minnesota Transfer, Minn. and Council Bluffs, Ia.

415	Veneer, Plywood, and Built-Up Wood	1	$ 1,049.75	$ 109.97

Via Minnesota Transfer, Minn. and Delmar, Ill.

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Minnesota Transfer, Minn. and East Moline, Ill.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
411	Lumber, Shingles, and Lath	1	$ 852.72	$ 66.45

Via Minnesota Transfer, Minn. and Elgin, Ill.

411	Lumber, Shingles, and Lath	3	$ 3,C7C.08	$ 272.10

Via Minnesota Transfer, Minn. and Franklin Park, Ill.

73	Fruits and Berries, Fresh, Frozen	26	$ 37,243.28	$ 3,857.13
89	Vegetables, Fresh, N.O.S., Not Frozen	3	3,340.41	382.15
95	Vegetables, Fresh, Frozen	2	2,165.05	217.22
411	Lumber, Shingles, and Lath	21	18,968.14	2,C10.63
415	Veneer, Plywood, and Built-Up Wood	13	13,651.63	1,557.31
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,C73.10	146.34
765	Food Products, N.O.S., Frozen	2	2,602.34	286.92
799	Manufactures and Miscellaneous, N.O.S.	2	2,718.48	277.47
	T O T A L	70	$ 81,762.43	$ 8,735.17

Via Minnesota Transfer, Minn. and Joliet, Ill.

411	Lumber, Shingles, and Lath	3	$ 2,456.59	$ 266.49
415	Veneer, Plywood, and Built-Up Wood	3	2,997.62	289.84
763	Food Products, N.C.S., in Cans and Packages, Not Frozen	1	1,409.85	123.63
	T O T A L	7	$ 6,864.06	$ 679.96

Via Minnesota Transfer, Minn. and Kansas City, Mo.

411	Lumber, Shingles, and Lath	20	$ 17,520.88	$ 2,384.83

Via Minnesota Transfer, Minn. and Ladd, Ill.

411	Lumber, Shingles, and Lath	1	$ 896.61	$ 104.03

Via Minnesota Transfer, Minn. and Linton, Ind.

107	Seeds, N.O.S.	2	$ 2,528.43	$ 486.28
415	Veneer, Plywood, and Built-Up Wood	2	1,614.97	229.66
	T O T A L	4	$ 4,143.40	$ 715.94

Via Minnesota Transfer, Minn. and Lyle, Minn.

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Via Minnesota Transfer, Minn. and Joliet, Ill.

411	Lumber, Shingles, and Lath	1	$ 769.60	$ 88.28

Via Minnesota Transfer, Minn. and Kansas City, Mo.

411	Lumber, Shingles, and Lath	8	$ 6,345.96	$ 691.85
415	Veneer, Plywood, and Built-Up Wood	6	4,605.23	541.70
555	Aluminum: Bar, Ingot, Pig, and Slab	1	974.32	115.14
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,181.40	153.24
	T O T A L	16	$ 13,106.91	$ 1,501.93

Via Minnesota Transfer, Minn. and Linton, Ind.

411	Lumber, Shingles, and Lath	1	$ 821.80	$ 87.57

Via Minnesota Transfer, Minn. and Mason City, Ia.

411	Lumber, Shingles, and Lath	1	$ 769.59	$ 69.84

Via Minnesota Transfer, Minn. and Menominee, Mich.

411	Lumber, Shingles, and Lath	2	$ 1,995.89	$ 240.48

Via Minnesota Transfer, Minn. and Milwaukee, Wis.

199	Products of Agriculture, N.O.S.	2	$ 1,643.71	$ 209.25
399	Products of Mines, N.O.S.	2	2,511.57	304.18
411	Lumber, Shingles, and Lath	27	24,035.56	3,117.54
415	Veneer, Plywood, and Built-Up Wood	5	5,278.77	618.07
653	Woodpulp	5	4,457.33	2,811.65
659	Printing Paper, N.O.S.	1	651.25	77.91
	T O T A L	42	$ 38,578.19	$ 7,138.60

Via Minnesota Transfer, Minn. and Seymour, Ind.

399	Products of Mines, N.O.S.	1	$ 1,275.59	$	228.11
411	Lumber, Shingles, and Lath	2	1,356.85		301.48
415	Veneer, Plywood, and Built-Up Wood	1	935.25		159.63
	TOTAL	4	$ 3,567.69	$	689.22

Via Minnesota Transfer, Minn. and Spaulding, Ill.

411	Lumber, Shingles, and Lath	1	$ 676.26	$	64.00

Via Minnesota Transfer, Minn. and Superior, Wis.

411	Lumber, Shingles, and Lath	1	$ 873.86	$	42.91

Via Minnesota Transfer, Minn. and Terre Haute, Ind.

411	Lumber, Shingles, and Lath	14	$ 11,736.61	$	2,016.62
415	Veneer, Plywood, and Built-Up Wood	5	3,844.92		574.39
499	Products of Forests, N.O.S.	5	3,796.51		685.73
671	Wallboard	1	644.80		105.99
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	4	5,128.58		840.30
	TOTAL	29	$ 25,151.42	$	4,223.03

Via Minnesota Transfer, Minn. and Chicago Heights, Ill.

411	Lumber, Shingles, and Lath	1	$ 835.12	$ 111.89

Via Minnesota Transfer, Minn. and Delmar, Ill.

411	Lumber, Shingles, and Lath	6	$ 4,649.20	$ 837.33

Via Minnesota Transfer, Minn. and Elgin, Ill.

411	Lumber, Shingles, and Lath	2	$ 1,445.08	$ 138.32

Via Minnesota Transfer, Minn. and Franklin Park, Ill.

411	Lumber, Shingles, and Lath	10	$ 7,261.62	$ 955.49

Via Minnesota Transfer, Minn. and Menominee, Mich.

411	Lumber, Shingles, and Lath	1	$ 703.45	$ 88.80

Via Minnesota Transfer, Minn. and Milwaukee, Wis.

411	Lumber, Shingles, and Lath	15	$ 11,452.62	$ 1,552.18

Via Minnesota Transfer, Minn. and Newell, Ill.

411	Lumber, Shingles, and Lath	3	$ 2,044.40	$ 426.97

		Via Omaha, Nebraska		
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	$ 952.77	$ 115.27
		Via Edgely, North Dakota		
411	Lumber, Shingles, and Lath	1	$ 849.46	$ 137.44
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	2	2,504.96	452.55
	T O T A L	3	$ 3,354.42	$ 589.99
		Via Kansas City, Missouri		
411	Lumber, Shingles, and Lath	3	$ 2,281.88	$ 244.61
		Via Miloma, Minnesota		
411	Lumber, Shingles, and Lath	2	$ 1,487.06	$ 148.40

Via Council Bluffs, Iowa and Franklin Park, Ill.

199	Products of Agriculture, N.O.S.	2	$ 1,520.60	$ 142.65

Via Council Bluffs, Iowa and Milwaukee, Wis.

411	Lumber, Shingles, and Lath	1	$ 872.00	$ 138.31

Via Green Bay, Wis. and Chicago, Ill.

411	Lumber, Shingles, and Lath	38	$ 33,734.75	$ 2,232.37
415	Veneer, Plywood, and Built-Up Wood	5	4,750.17	191.75
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,274.94	69.55
	TOTAL	44	$ 39,759.86	$ 2,493.67

Via Green Bay, Wis. and Franklin Park, Ill.

53	Berries, Fresh, Not Frozen	1	$ 1,484.23	$ 40.12
73	Fruits and Berries, Fresh, Frozen	1	1,446.70	22.12
411	Lumber, Shingles, and Lath	4	3,700.97	177.03
	TOTAL	6	$ 6,631.90	$ 239.27

Via Kansas City, Mo. and Champion, Mich.

411	Lumber, Shingles, and Lath	1	$ 911.30	$ 115.61

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

Via Minnesota Transfer, Minn. and Milwaukee, Wis.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
411	Lumber, Shingles, and Lath	19	$ 18,547.58	$ 2,396.44
415	Veneer, Plywood, and Built-Up Wood	27	28,827.50	3,519.04
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	2	2,152.50	305.07
	TOTAL	48	$ 49,527.58	$ 6,220.55

Via Minnesota Transfer, Minn. and Newell, Ill.

411	Lumber, Shingles, and Lath	9	$ 8,598.71	$ 1,464.50
415	Veneer, Plywood, and Built-Up Wood	14	14,491.29	2,197.66
	TOTAL	23	$ 23,090.00	$ 3,662.16

Via Minnesota Transfer, Minn. and Ottumwa, Iowa

415	Veneer, Plywood, and Built-Up Wood	3	$ 2,873.71	$ 205.18

Via Minnesota Transfer, Minn. and Racine, Wis.

411	Lumber, Shingles, and Lath	45	$ 39,986.93	$ 3,942.17
415	Veneer, Plywood, and Built-Up Wood	2	2,276.03	207.95
	TOTAL	47	$ 42,262.96	$ 4,150.12

Via Minnesota Transfer, Minn. and Rockwell City, Iowa

415	Veneer, Plywood, and Built-Up Wood	1	$ 974.38	$ 64.34

Via Minnesota Transfer, Minn. and Rondout, Ill.

73	Fruits and Berries, Fresh, Frozen	1	$ 1,290.62	$ 126.98
107	Seeds, N.O.S.	1	1,202.42	132.04
411	Lumber, Shingles, and Lath	25	22,411.52	2,551.28
415	Veneer, Plywood, and Built-Up Wood	29	31,927.05	3,705.34
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,021.01	67.31
	TOTAL	57	$ 57,852.62	$ 6,582.95

Via Minnesota Transfer, Minn. and Seymour, Ind.

STATEMENT OF TRAFFIC ORIGINATING AT STATIONS ON THE OREGON ELECTRIC RAILWAY AND TERMINATING AT STATIONS ON FOREIGN LINES, SHOWING THE COMMODITY, NUMBER OF CARS, FREIGHT CHARGES AND CMStP&P REVENUE, AND SEPARATED AS BETWEEN CARS INTERCHANGED AT VARIOUS POINTS AS SHOWN, FOR THE YEAR 1952

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Via Minnesota Transfer, Minn. and Wausau, Wis.

ICC No.	Commodity Description	No. of Cars	Freight Charges	CMStP&P Revenue
199	Products of Agriculture, N.O.S.	1	$ 1,255.82	$ 90.14

Via Minnesota Transfer, Minn. and Webster, Ill.

411	Lumber, Shingles, and Lath	2	$ 1,829.04	$ 326.04
415	Veneer, Plywood, and Built-Up Wood	2	1,771.95	363.44
	TOTAL	4	$ 3,600.99	$ 689.48

Via Minnesota Transfer, Minn. and West Dana, Ind.

411	Lumber, Shingles, and Lath	1	$ 803.73	$ 56.58
415	Veneer, Plywood, and Built-Up Wood	3	3,684.43	694.29
	TOTAL	4	$ 4,488.16	$ 750.87

Via Minnesota Transfer, Minn. and Winona, Minn.

411	Lumber, Shingles, and Lath	74	$ 65,150.22	$ 3,173.26
415	Veneer, Plywood, and Built-Up Wood	2	1,728.67	128.29
	TOTAL	76	$ 66,878.89	$ 3,301.55

Via Minnesota Transfer, Minn. and Wisconsin Rapids, Wis.

411	Lumber, Shingles, and Lath	2	$ 2,004.56	$ 199.26

Via Northfield, Minn. and Norpaul, Ill.

411	Lumber, Shingles, and Lath	4	$ 2,973.41	$ 251.53

Via Sioux City, Iowa and Des Moines, Iowa

411	Lumber, Shingles, and Lath	1	$ 787.60	$ 57.61

Via Spokane, Wash. and Aberdeen, S. D.

411	Lumber, Shingles, and Lath	1	$ 886.71	$ 326.32

Via Spokane, Wash. and McKeever, Mich.

415	Veneer, Plywood, and Built-Up Wood	1	$ 852.93	$ 529.24

[fol. 4238]

Before the Interstate Commerce Commission

EXHIBIT No. 3

INTERSTATE COMMERCE COMMISSION DOCKET NO. 31466

EXHIBIT NO. 3 (A)

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

WITNESS H. O. Engel

VS

SPOKANE, PORTLAND AND SEATTLE RAILWAY COMPANY, ET AL

DEFINITION OF TERRITORIAL AND OTHER TERMS

TERM	DEFINITION
Spokane, Portland and Seattle Railway System S.P.& S.	The Spokane, Portland and Seattle Railway System comprises the following units: **S.P.& S. Ry.** — Miles Main Line - - Spokane, Wash., to Astoria, Ore..... 468.6 " " - - Astoria to Seaside, Ore. ..... 18.3 " " - - Vancouver, Wash. to Portland, Ore. . 10.0 " " - - Portland to East Portland, Ore. .... 3.2 Branch Line - Warrenton to Hammond, Ore. ..... 2.7 " " - River Jct., to Rafton, Ore. ..... .5 " " - United Jct., to Keasey, Ore. ..... 47.0 " " - Lyle to Goldendale, Wash. ..... 41.6 **O.T.Ry.** Wishram, Wash., to Bend, Ore. ..... 151.5 **O.E.Ry.** Main Line - - Portland, Ore. to Eugene, Ore. ..... 142.8 Branch Line - Forest Grove Jct. to Forest Grove, Ore. ..... 10.6 " " - Albany Yard to Dollar, Ore. ..... 44.3 " " - Sweet Home to Foster, Ore. ..... 3.1 Authority: S.P.& S.Ry, I.C.C.No. 732, G.F.D. 685-K. N.B. For official list of stations, see Section E.

TERM	DEFINITION
Trans-Continental Territory - - East of Missouri River	Points in Eastern Defined Territories named in Agent W. J. Prueter's I.C.C. No.1548 (TCFB Territorial Directory No.5), embracing territory generally east of the Missouri River in North and South Dakota and east of a line along the eastern border of Wyoming, thence through Cheyenne, Wyo., Denver, Pueblo and Trinidad, Colo. to El Paso, Tex.
West of Trans-Continental Territory - - West of the Missouri River	Stations on the C.M.St.P.& P.R.R. generally east of Spokane, Wash., in the States of Washington, Idaho, Montana, North Dakota and South Dakota, Mobridge and west thereof, also stations on the Butte, Anaconda & Pacific Ry., and White Sulphur Springs & Yellowstone Park Ry.
Eastern Gateways	Junctions in North Dakota, South Dakota (east of Mobridge), Minnesota, Wisconsin, Iowa, etc., at which traffic may be interchanged without transfer of lading, including such points as Minneapolis, St.Paul, Minnesota Transfer, Duluth, Minn., Superior, Wisc., Aberdeen, Sioux Falls, S.D., Sioux City, Council Bluffs, Iowa and Kansas City, Mo.
North Coast Territory.	Stations named in Agent W. J. Prueter's I.C.C. No. 1548 (TCFB Territorial Directory No. 5), taking Rate Basis 1, 2 and 3 rates, or arbitraries over, embracing generally the States of Oregon, Washington and Idaho.

(One Page Only)

Before the Interstate Commerce Commission

I.C.C. Docket 31466
Exhibit 18
Witness: W. K. Hottinger

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY
Finance and Accounting Department

ESTIMATE OF INCREASED REVENUE ON CARLOAD TRAFFIC SHOWN IN EXHIBIT 1, WHICH WOULD HAVE ACCRUED TO CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY DURING CALENDAR YEAR 1952 IF ALL OF SUCH TRAFFIC HAD BEEN INTERCHANGED AT SPOKANE, WASH. BETWEEN SPOKANE PORTLAND & SEATTLE RY. CO. AND CMStPaP RR CO.

	Number of Carloads	Freight Charges	CMStPaP Revenue	Divisions	Estimated CMStPaP Revenue (Via Spokane)	CMStPaP Revenue Increase
ORIGINATING ON CMStPaP:						
East of Minn. Trr.-West of Chicago	378	$ 354,867.49	$ 58,834.52	16⅔% 75% of 83⅓%	$ 280,788.90	$ 221,954.38
" " " " " "	51	45,025.22	7,488.45	16⅔% 75% of 80% of 83⅓%	29,986.80	22,498.39
West of Minn. Trr.	50	23,458.16	4,547.03	75%	17,593.62	13,046.99
" " "	1	711.97	227.83	75% of 80%	427.18	199.35
Via Spokane- No Increase	8	8,867.39	6,061.05	-	6,061.05	-
Total Originating on CMStPaP	488	432,930.23	77,158.88		334,857.55	257,698.67
TERMINATING ON CMStPaP:						
East of Minn. Trr.-West of Chicago	762	487,890.64	103,617.89	16⅔% 75% of 83⅓%	465,959.72	362,341.83
" " " " " "	2,035	1,520,654.50	229,928.44	16⅔% 75% of 80% of 83⅓%	1,012,889.10	782,960.66
West of Minn. Trr.-	12	6,498.16	1,317.72	75%	4,873.62	3,555.90
" " " "	9	8,775.32	1,872.61	75% of 80%	5,267.59	3,394.98
East of Chicago (Via T.H.Div.)	6	7,539.82	466.41	13% 16⅔% of 87% 75% of 83⅓% of 87%	6,170.51	5,704.10
" " " " " "	3	3,091.23	337.04	13% 16⅔% of 87% 75% of 80% of 83⅓% of 87%	2,192.98	1,855.94
Via Spokane - No Increase	492	464,672.19	91,374.26	-	101,374.26	-
Total Terminating on CMStPaP	3,319	2,500,325.86	438,914.37		1,598,727.78	1,159,813.41
ORIGINATING ON FOREIGN LINES:						
East of Minn.Trr.-West of Chicago	14	10,148.35	1,123.22	50% of 16⅔% 75% of 83⅓%	7,192.78	6,069.56
" " " " " "	1	665.64	58.38	50% of 16⅔% 75% of 80% of 83⅓%	388.40	330.02
East of Chicago (Via T.H.Div.)	19	17,460.09	2,786.73	20% of 13% 16⅔% of 77% 75% of 83⅓% of 77%	11,506.40	8,719.67
" " " " " "	2	2,044.94	186.46	20% of 13% 16⅔% of 77% 75% of 80% of 83⅓% of 77%	1,142.75	956.29
East of Chgo.- Via Junctions West of Chgo:						
Via Ladd, Ill.	24	23,336.31	2,942.01	85% of 16⅔% of 77% 75% of 83⅓% of 77%	13,773.09	10,831.08
Via Ladd, Ill.	1	832.84	97.53	85% of 16⅔% of 77% 60% of 83⅓% of 77%	447.10	349.57
Via Racine, Wisc.	43	42,408.99	4,355.04	75% of 16⅔% of 77% 75% of 83⅓% of 77%	24,491.19	20,136.15
Via Racine, Wisc.	1	2,249.46	201.82	75% of 16⅔% of 77% 75% of 80% of 83⅓% of 77%	1,082.13	880.31
Via Winona, Minn (Across Lake)	36	41,866.77	2,171.19	41% of 16⅔% of 77% 75% of 83⅓% of 77%	22,369.42	20,198.23
East of Chicago-Via Chgo or Milw.	385	477,110.91	64,619.44	16⅔% of 77% 75% of 83⅓% of 77%	290,684.59	226,065.15
" " " " " "	13	16,099.56	2,174.20	16⅔% of 77% 75% of 80% of 83⅓% of 77%	8,256.18	6,081.98
Via Spokane - No Increase	20	24,299.49	13,731.53	-	13,731.53	-
Total Originating on Foreign Line	599	658,422.51	94,447.45		395,065.56	300,618.01
TERMINATING ON FOREIGN LINES:						
East of Minn. Trr.-West of Chicago	25	20,230.99	2,072.66	50% of 16⅔% 75% of 83⅓%	14,338.71	12,266.05
" " " " " "	44	39,732.48	3,879.36	50% of 16⅔% 75% of 80% of 83⅓%	23,184.02	19,304.66
East of Chicago-(Via T.H.Div.)	134	129,664.28	21,963.22	20% of 13% 16⅔% of 77% 75% of 83⅓% of 77%	84,963.82	63,000.60
" " " " " "	182	174,568.32	29,909.58	20% of 13% 16⅔% of 83⅓% of 77% 75% of 80% of 83⅓% of 77%	93,893.32	63,983.74
East of Chicago-Via Junctions West of Chicago:						
Via Ladd, Ill.	1	896.61	104.03	85% of 16⅔% of 77% 75% of 80% of 83⅓% of 77%	442.70	338.67
Via Racine, Wisc.	198	144,973.66	13,002.24	75% of 16⅔% of 77% 75% of 83⅓% of 77%	83,722.29	70,720.05
Via Racine, Wisc.	67	58,730.00	4,714.81	75% of 16⅔% of 77% 75% of 80% of 83⅓% of 77%	28,252.65	22,537.84
Via Winona, Minn.	38	38,965.09	2,140.64	41% of 16⅔% of 77% 75% of 83⅓% of 77%	20,819.03	18,678.39
Via Winona, Minn.	101	85,983.16	4,278.64	41% of 16⅔% of 77% 75% of 80% of 83⅓ of 77%	37,648.59	33,369.95
East of Chicago Via Chicago or Milwaukee	400	379,302.77	54,730.20	16⅔% of 77% 75% of 83⅓ of 77%	231,074.01	176,343.81
" " " " " "	844	845,751.79	100,073.50	16⅔% of 77% 75% of 80% of 83⅓% of 77%	433,718.40	333,644.90
Via Spokane - No Increase	4	1,434.09	2,026.78	-	2,026.78	-
Total Terminating on Foreign Lines	2,018	1,922,333.30	239,895.66		1,054,104.32	814,208.66
GRAND TOTAL	6,384	$5,314,211.90	$ 850,416.46		$3,382,795.21	$2,532,378.75

Office of Vice President,
Chicago, Illinois.

[fol. 4240]

EXHIBIT No. 22

Before the Interstate Commerce Commission

I.C.C. Docket No. 31466
Exhibit No. 22
Witness: J. L. Pease
Page 1 of 4 pages

STATEMENT OF RATES ON SHEEP, IN DOUBLE-DECK CARLOADS FROM WASHTUCNA, WASH. AND BEND, ORE.

TO: St. Paul, Minn.: (Via SP&S-Spokane, Wash.-GN Ry., stopped at Browning, Mont.
(Via SP&S-Spokane, Wash.-NP Ry., stopped at Trout Creek, Mont.
(as compared with
(Via SP&S-Spokane, Wash.-CMStP&P RR., stopped at Pocono, Ida.

TO: Chicago, Ill.: (Via SP&S-Spokane, Wash.-GN Ry.-Minnesota Transfer, Minn.-CB&Q RR., stopped at Browning, Mont.
(Via SP&S-Spokane, Wash.-NP Ry.-Minnesota Transfer, Minn.-CB&Q RR., stopped at Trout Creek, Mont.
(as compared with
(Via SP&S-Spokane, Wash.-CMStP&P RR.-Minnesota Transfer, Minn.-CB&Q RR., stopped at Pocono, Ida.

FROM	TO	RATES IN CENTS PER 100 LBS.	MINIMUM WEIGHT	MINIMUM CAR CHARGE	VIA	DISTANCE (MILES)
Washtucna, Wash.	St. Paul, Minn.	136	20,000 lbs.	$272.00	SP&S-Spokane, Wash.-GN	1521
Charge for stopping-in-transit to graze at Browning, Mont.				11.34		
TOTAL charge per minimum car Washtucna, Wash. to St. Paul, Minn.				$283.34		
Washtucna, Wash.	St. Paul, Minn.	136	20,000 lbs.	$272.00	SP&S-Spokane, Wash.-NP	1580
Charge for stopping-in-transit to graze at Trout Creek, Mont.				11.34		
TOTAL charge per minimum car Washtucna, Wash. to St. Paul, Minn.				$283.34		
Washtucna, Wash.	Pocono, Ida.	38½	20,000 lbs.	$ 77.00	SP&S-Spokane, Wash.-CMStP&P	1552
Pocono, Ida.	St. Paul, Minn.	123	20,000 lbs.	246.00		
TOTAL charge per minimum car Washtucna, Wash. to St. Paul, Minn.				$323.00		

Via Minnesota Transfer, Minn. and Chicago Heights, Ill.

411	Lumber, Shingles, and Lath	3	$ 2,913.08	$ 506.81
415	Veneer, Plywood, and Built-Up Wood	2	2,483.53	332.74
	TOTAL	5	$ 5,396.61	$ 839.55

Via Minnesota Transfer, Minn. and Delmar, Ill.

107	Seeds, N.O.S.	2	$ 2,354.25	$ 340.34
411	Lumber, Shingles, and Lath	19	17,074.32	2,980.18
415	Veneer, Plywood, and Built-Up Wood	39	43,155.69	7,575.17
	TOTAL	60	$ 62,584.26	$10,895.69

Via Minnesota Transfer, Minn. and Dubuque, Iowa

411	Lumber, Shingles, and Lath	1	$ 1,350.38	$ 61.90

Via Minnesota Transfer, Minn. and Kansas City, Mo.

411	Lumber, Shingles, and Lath	20	$ 17,520.88	$ 2,384.83

Via Minnesota Transfer, Minn. and Ladd, Ill.

411	Lumber, Shingles, and Lath	1	$ 896.61	$ 104.03

Via Minnesota Transfer, Minn. and Linton, Ind.

107	Seeds, N.O.S.	2	$ 2,528.43	$ 486.28
415	Veneer, Plywood, and Built-Up Wood	2	1,614.97	229.66
	TOTAL	4	$ 4,143.40	$ 715.94

Via Minnesota Transfer, Minn. and Lyle, Minn.

415	Veneer, Plywood, and Built-Up Wood	1	$ 1,057.10	$ 69.07

Via Minnesota Transfer, Minn. and Menominee, Mich.

411	Lumber, Shingles, and Lath	3	$ 2,884.81	$ 350.31

Via Minnesota Transfer, Minn. and Rockwell City, Iowa

415	Veneer, Plywood, and Built-Up Wood	1	$ 974.38	$ 64.34

Via Minnesota Transfer, Minn. and Rondout, Ill.

73	Fruits and Berries, Fresh, Frozen	1	$ 1,290.62	$ 126.98
107	Seeds, N.O.S.	1	1,202.42	132.04
411	Lumber, Shingles, and Lath	25	22,411.52	2,551.28
415	Veneer, Plywood, and Built-Up Wood	29	31,927.05	3,705.34
763	Food Products, N.O.S., in Cans and Packages, Not Frozen	1	1,021.01	67.31
	TOTAL	57	$ 57,852.62	$ 6,582.95

Via Minnesota Transfer, Minn. and Seymour, Ind.

411	Lumber, Shingles, and Lath	3	$ 2,992.69	$ 481.12
415	Veneer, Plywood, and Built-Up Wood	2	2,244.55	447.97
	TOTAL	5	$ 5,237.24	$ 929.09

Via Minnesota Transfer, Minn. and Superior, Wis.

411	Lumber, Shingles, and Lath	7	$ 6,261.29	$ 298.47

Via Minnesota Transfer, Minn. and Terre Haute, Ind.

107	Seeds, N.O.S.	2	$ 2,142.69	$ 365.49
411	Lumber, Shingles, and Lath	11	10,237.84	1,864.19
415	Veneer, Plywood, and Built-Up Wood	2	1,886.74	357.24
773	Feed, Animal and Poultry, N.O.S.	1	1,032.45	172.29
	TOTAL	16	$ 15,299.72	$ 2,759.21

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Witness: J. L. Pease
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FROM	TO	RATES IN CENTS PER 100 LBS.	MINIMUM WEIGHT	MINIMUM CAR CHARGE	VIA	DISTANCE (MILES)
Washtucna, Wash.	Chicago, Ill.	168	20,000 lbs.	$336.00	SP&S-Spokane, Wash.-	1948
Charge for stopping-in-transit to graze at Browning, Mont.				11.34	GN-CB&Q	
TOTAL charge per minimum car Washtucna, Wash. to Chicago, Ill.				$347.34		
Washtucna, Wash.	Chicago, Ill.	168	20,000 lbs.	$336.00	SP&S-Spokane, Wash.-	2004
Charge for stopping-in-transit to graze at Trout Creek, Mont.				11.34	NP-CB&Q	
TOTAL charge per minimum car Washtucna, Wash. to Chicago, Ill.				$347.34		
Washtucna, Wash.	Pocono, Ida.	38½	20,000 lbs.	$ 77.00	SP&S-Spokane, Wash.-	1979
Pocono, Ida.	Chicago, Ill.	156	20,000 lbs.	312.00	CMStP&P-Minn. Trf.-	
TOTAL charge per minimum car Washtucna, Wash. to Chicago, Ill.				$389.00	CB&Q.	

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Witness: J. L. Pease
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TO: St. Paul, Minn.: (Via OT-Wishram, Wash.-SP&S-Spokane, Wash.-GN Ry., stopped at Browning, Mont.
(Via OT-Wishram, Wash.-SP&S-Spokane, Wash.-NP Ry., stopped at Trout Creek, Mont.
(as compared with
(Via OT-Wishram, Wash.-SP&S-Spokane, Wash.-CMStP&P RR., stopped at Pocono, Ida.

TO: Chicago, Ill. (Via OT-Wishram, Wash.-SP&S-Spokane, Wash.-GN Ry.-Minnesota Transfer, Minn.-CB&Q, stopped at Browning, Mont.
(Via OT-Wishram, Wash.-SP&S-Spokane, Wash.-NP Ry.-Minnesota Transfer, Minn.-CB&Q, stopped at Trout Creek, Mont.
(as compared with
(Via OT-Wishram, Wash.-SP&S-Spokane, Wash.-CMStP&P RR.-Minnesota Transfer, Minn.-CB&Q, stopped at Pocono, Ida.

FROM	TO	RATES IN CENTS PER 100 LBS.	MINIMUM WEIGHT	MINIMUM CAR CHARGE	VIA	DISTANCE (MILES)
Bend, Ore.	St. Paul, Minn.	150	20,000 lbs.	$300.00	OT-Wishram, Wash.-	1858
Charge for stopping-in-transit to graze at Browning, Mont.				11.34	SP&S-Spokane, Wash.-	
TOTAL charge per minimum car Bend, Ore. to St. Paul, Minn.				$311.34	GN	
Bend, Ore.	St. Paul, Minn.	150	20,000 lbs.	$300.00	OT-Wishram, Wash.-	1917
Charge for stopping-in-transit to graze at Trout Creek, Mont.				11.34	SP&S-Spokane, Wash.-	
TOTAL charge per minimum car Bend, Ore. to St. Paul, Minn.				$311.34	NP	
Bend, Ore.	Pocono, Ida.	71	20,000 lbs.	$142.00	OT-Wishram, Wash.-	1889
Pocono, Ida.	St. Paul, Minn.	123	20,000 lbs.	246.00	SP&S-Spokane, Wash.-	
TOTAL charge per minimum car Bend, Ore. to St. Paul, Minn.				$388.00	CMStP&P	

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Witness: J. L. Pease
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FROM	TO	RATES IN CENTS PER 100 LBS.	MINIMUM WEIGHT	MINIMUM CAR CHARGE	VIA	DISTANCE (MILES)
Bend, Ore.	Chicago, Ill.	185	20,000 lbs.	$370.00	OT-Wishram, Wash.-	2285
Charge for stopping-in-transit to graze at Browning, Mont.				11.34	SP&S-Spokane, Wash.-	
TOTAL charge per minimum car Bend, Ore. to Chicago, Ill.				$381.34	GN-Minn.Tfr., Minn.-	
					CB&Q	
Bend, Ore.	Chicago, Ill.	185	20,000 lbs.	$370.00	OT-Wishram, Wash.-	2352
Charge for stopping-in-transit to graze at Trout Creek, Mont.				11.34	SP&S-Spokane, Wash.-	
TOTAL charge per minimum car Bend, Ore. to Chicago, Ill.				$381.34	NP-Minn.Tfr., Minn.-	
					CB&Q	
Bend, Ore.	Pocono, Ida.	71	20,000 lbs.	$142.00	OT-Wishram, Wash.-	2316
Pocono, Ida.	Chicago, Ill.	156	20,000 lbs.	312.00	SP&S-Spokane, Wash.-	
TOTAL charge per minimum car Bend, Ore. to Chicago, Ill.				$454.00	CMStP&P-Minn.Tfr., Minn.-CB&Q	

The above rates are subject to Ex Parte 175 increases.

TARIFF AUTHORITIES

RATES

Agent W. J. Prueter's I.C.C. No. 1534
Agent W. R. Watson's I.C.C. No. 829
Agent W. R. Watson's I.C.C. No. 835

DISTANCES

SP&S I.C.C. No. 732
GN I.C.C. No. A-6710
NP I.C.C. No. 9759
CB&Q I.C.C. No. 20386
CMStP&P I.C.C. No. B-5894
CMStP&P I.C.C. No. B-7594